2012

SESSION LAWS

OF THE

STATE OF WASHINGTON

REGULAR SESSION
SIXTY-SECOND LEGISLATURE
Convened January 9, 2012. Adjourned March 8, 2012.

FIRST SPECIAL SESSION
SIXTY-SECOND LEGISLATURE
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Code Reviser

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WASHINGTON SESSION LAWS
GENERAL INFORMATION

1. EDITIONS AVALIABLE.

   (a) *General Information.* The session laws are printed in a permanent softbound edition containing the accumulation of all laws adopted in the legislative session. The edition contains a subject index and tables indicating Revised Code of Washington sections affected.

   (b) *Where and how obtained - price.* The permanent session laws may be ordered from the Statute Law Committee, Pritchard Building, P.O. Box 40552, Olympia, Washington 98504-0552. The edition costs $25.00 per set plus applicable state and local sales taxes and $7.00 shipping and handling. All orders must be accompanied by payment.

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

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

   (a) In amendatory sections

      (i) underlined matter is new matter.

      (ii) deleted matter is ((~~lined out and bracketed between double parentheses~~)).

   (b) Complete new sections are prefaced by the words NEW SECTION.

3. PARTIAL VETOES.

   (a) Vetoed matter is ***printed in bold italics.***

   (b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

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

5. EFFECTIVE DATE OF LAWS.

   (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the effective date for the Laws of the 2012 regular session to be the first moment of June 7, 2012. The effective date for the Laws of the 2012 first special special session is July 10, 2012. The effective date for the Laws of the 2012 second special special session is July 11, 2012.

   (b) Laws that carry an emergency clause take effect immediately, or as otherwise specified, upon approval by the Governor.

   (c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES.

   A cumulative index and tables of all 2012 laws may be found at the back of the final volume.

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CHAPTER 177

[Substitute Senate Bill 6240]

JUVENILES—ORDERS OF DISPOSITION

AN ACT Relating to orders of disposition for juveniles; amending RCW 13.40.127 and 13.40.180; and reenacting and amending RCW 13.50.050 and 13.40.0357.

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

Sec. 1. RCW 13.40.127 and 2009 c 236 s 1 are each amended to read as follows:

(1) A juvenile is eligible for deferred disposition unless he or she:

(a) Is charged with a sex or violent offense;

(b) Has a criminal history which includes any felony;

(c) Has a prior deferred disposition or deferred adjudication; or

(d) Has two or more adjudications.

(2) The juvenile court may, upon motion at least fourteen days before commencement of trial and, after consulting the juvenile's custodial parent or parents or guardian and with the consent of the juvenile, continue the case for disposition for a period not to exceed one year from the date the juvenile is found guilty. The court shall consider whether the offender and the community will benefit from a deferred disposition before deferring the disposition. The court may waive the fourteen-day period anytime before the commencement of trial for good cause.

(3) Any juvenile who agrees to a deferral of disposition shall:

(a) Stipulate to the admissibility of the facts contained in the written police report;

(b) Acknowledge that the report will be entered and used to support a finding of guilt and to impose a disposition if the juvenile fails to comply with terms of supervision; ((~~and~~))

(c) Waive the following rights to: (i) A speedy disposition; and (ii) call and confront witnesses; and

(d) Acknowledge the direct consequences of being found guilty and the direct consequences that will happen if an order of disposition is entered.

The adjudicatory hearing shall be limited to a reading of the court's record.

(4) Following the stipulation, acknowledgment, waiver, and entry of a finding or plea of guilt, the court shall defer entry of an order of disposition of the juvenile.

(5) Any juvenile granted a deferral of disposition under this section shall be placed under community supervision. The court may impose any conditions of supervision that it deems appropriate including posting a probation bond. Payment of restitution under RCW 13.40.190 shall be a condition of community supervision under this section.

The court may require a juvenile offender convicted of animal cruelty in the first degree to submit to a mental health evaluation to determine if the offender would benefit from treatment and such intervention would promote the safety of the community. After consideration of the results of the evaluation, as a condition of community supervision, the court may order the offender to attend treatment to address issues pertinent to the offense.

(6) A parent who signed for a probation bond has the right to notify the counselor if the juvenile fails to comply with the bond or conditions of

supervision. The counselor shall notify the court and surety of any failure to comply. A surety shall notify the court of the juvenile's failure to comply with the probation bond. The state shall bear the burden to prove, by a preponderance of the evidence, that the juvenile has failed to comply with the terms of community supervision.

(7) ((~~A juvenile's lack of compliance shall be determined by the judge upon written motion by the prosecutor or the juvenile's juvenile court community supervision counselor. If a juvenile fails to comply with terms of supervision, the court shall enter an order of disposition~~)) (a) Anytime prior to the conclusion of the period of supervision, the prosecutor or the juvenile's juvenile court community supervision counselor may file a motion with the court requesting the court revoke the deferred disposition based on the juvenile's lack of compliance or treat the juvenile's lack of compliance as a violation pursuant to RCW 13.40.200.

(b) If the court finds the juvenile failed to comply with the terms of the deferred disposition, the court may:

(i) Revoke the deferred disposition and enter an order of disposition; or

(ii) Impose sanctions for the violation pursuant to RCW 13.40.200.

(8) At any time following deferral of disposition the court may, following a hearing, continue ((~~the case~~)) supervision for an additional one-year period for good cause.

(9)(a) At the conclusion of the period ((~~set forth in the order of deferral and upon a finding by the court of full compliance with conditions of supervision and payment of full restitution~~)) of supervision, the court shall determine whether the juvenile is entitled to dismissal of the deferred disposition only when the court finds:

(i) The deferred disposition has not been previously revoked;

(ii) The juvenile has completed the terms of supervision;

(iii) There are no pending motions concerning lack of compliance pursuant to subsection (7) of this section; and

(iv) The juvenile has either paid the full amount of restitution, or, made a good faith effort to pay the full amount of restitution during the period of supervision.

(b) If the court finds the juvenile is entitled to dismissal of the deferred disposition pursuant to (a) of this subsection, the ((~~respondent's~~)) juvenile's conviction shall be vacated and the court shall dismiss the case with prejudice, except that a conviction under RCW 16.52.205 shall not be vacated. Whenever a case is dismissed with restitution still owing, the court shall enter a restitution order pursuant to RCW 13.40.190 for any unpaid restitution. Jurisdiction to enforce payment and modify terms of the restitution order shall be the same as those set forth in RCW 13.40.190.

(c) If the court finds the juvenile is not entitled to dismissal of the deferred disposition pursuant to (a) of this subsection, the court shall revoke the deferred disposition and enter an order of disposition. A deferred disposition shall remain a conviction unless the case is dismissed and the conviction is vacated pursuant to (b) of this subsection or sealed pursuant to RCW 13.50.050.

(10)(a) ((~~Records of deferred disposition cases vacated under subsection (9) of this section shall be sealed no later than thirty days after the juvenile's eighteenth birthday provided that the juvenile does not have any charges pending~~

~~at that time. If a juvenile has already reached his or her eighteenth birthday before July 26, 2009, and does not have any charges pending, he or she may request that the court issue an order sealing the records of his or her deferred disposition cases vacated under subsection (9) of this section, and this request shall be granted.~~)) (i) Any time the court vacates a conviction pursuant to subsection (9) of this section, if the juvenile is eighteen years of age or older and the full amount of restitution ordered has been paid, the court shall enter a written order sealing the case.

(ii) Any time the court vacates a conviction pursuant to subsection (9) of this section, if the juvenile is not eighteen years of age or older and full restitution ordered has been paid, the court shall schedule an administrative sealing hearing to take place no later than thirty days after the respondent's eighteenth birthday, at which time the court shall enter a written order sealing the case. The respondent's presence at the administrative sealing hearing is not required.

(iii) Any deferred disposition vacated prior to the effective date of this section is not subject to sealing under this subsection.

(b) Nothing in this subsection shall preclude a juvenile from petitioning the court to have the records of his or her deferred dispositions sealed under RCW 13.50.050 (11) and (12).

(((~~(b)~~))) (c) Records sealed under this provision shall have the same legal status as records sealed under RCW 13.50.050.

Sec. 2. RCW 13.50.050 and 2011 c 338 s 4 and 2011 c 333 s 4 are each reenacted and amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (12) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) Upon the decision to arrest or the arrest, law enforcement and prosecuting attorneys may cooperate with schools in releasing information to a

school pertaining to the investigation, diversion, and prosecution of a juvenile attending the school. Upon the decision to arrest or the arrest, incident reports may be released unless releasing the records would jeopardize the investigation or prosecution or endanger witnesses. If release of incident reports would jeopardize the investigation or prosecution or endanger witnesses, law enforcement and prosecuting attorneys may release information to the maximum extent possible to assist schools in protecting other students, staff, and school property.

(8) The juvenile court and the prosecutor may set up and maintain a central recordkeeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central recordkeeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central recordkeeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(9) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(10) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(11) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (23) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(12)(a) The court shall not grant any motion to seal records for class A offenses made pursuant to subsection (11) of this section that is filed on or after July 1, 1997, unless:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense;

(v) The person has not been convicted of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion; and

(vi) Full restitution has been paid.

(b) The court shall not grant any motion to seal records for class B, C, gross misdemeanor and misdemeanor offenses and diversions made under subsection (11) of this section unless:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense; and

(v) Full restitution has been paid.

(c) Notwithstanding the requirements in (a) or (b) of this subsection, the court shall grant any motion to seal records of any deferred disposition vacated under RCW 13.40.127(9) prior to the effective date of this section if restitution has been paid and the person is eighteen years of age or older at the time of the motion.

(13) The person making a motion pursuant to subsection (11) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(14)(a) If the court grants the motion to seal made pursuant to subsection (11) of this section, it shall, subject to subsection (23) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(15) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the

person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (23) of this section.

(16) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW. The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(17)(a)(i) Subject to subsection (23) of this section, all records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within ninety days of becoming eligible for destruction. Juvenile records are eligible for destruction when:

(A) The person who is the subject of the information or complaint is at least eighteen years of age;

(B) His or her criminal history consists entirely of one diversion agreement or counsel and release entered on or after June 12, 2008;

(C) Two years have elapsed since completion of the agreement or counsel and release;

(D) No proceeding is pending against the person seeking the conviction of a criminal offense; and

(E) There is no restitution owing in the case.

(ii) No less than quarterly, the administrative office of the courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for destruction. The juvenile court shall verify eligibility and notify the Washington state patrol and the appropriate local law enforcement agency and prosecutor's office of the records to be destroyed. The requirement to destroy records under this subsection is not dependent on a court hearing or the issuance of a court order to destroy records.

(iii) The state and local governments and their officers and employees are not liable for civil damages for the failure to destroy records pursuant to this section.

(b) All records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within thirty days of being notified by the governor's office that the subject of those records received a full and unconditional pardon by the governor.

(c) A person eighteen years of age or older whose criminal history consists entirely of one diversion agreement or counsel and release entered prior to June 12, 2008, may request that the court order the records in his or her case destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that two years have elapsed since completion of the agreement or counsel and release.

(d) A person twenty-three years of age or older whose criminal history consists of only referrals for diversion may request that the court order the records in those cases destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that all diversion agreements have been successfully completed and no proceeding is pending against the person seeking the conviction of a criminal offense.

(18) If the court grants the motion to destroy records made pursuant to subsection (17)(c) or (d) of this section, it shall, subject to subsection (23) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(19) The person making the motion pursuant to subsection (17)(c) or (d) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(20) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(21) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(22) Any juvenile justice or care agency may, subject to the limitations in subsection (23) of this section and (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older or pursuant to subsection (17)(a) of this section.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(23) Except for subsection (17)(b) of this section, no identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

(24) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault.

Sec. 3. RCW 13.40.180 and 2002 c 175 s 24 are each amended to read as follows:

(1) Where a disposition in a single disposition order is imposed on a youth for two or more offenses, the terms shall run consecutively, subject to the following limitations:

(((~~(1)~~))) (a) Where the offenses were committed through a single act or omission, omission, or through an act or omission which in itself constituted one

of the offenses and also was an element of the other, the aggregate of all the terms shall not exceed one hundred fifty percent of the term imposed for the most serious offense;

((~~(2)~~)) (b) The aggregate of all consecutive terms shall not exceed three hundred percent of the term imposed for the most serious offense; and

((~~(3)~~)) (c) The aggregate of all consecutive terms of community supervision shall not exceed two years in length, or require payment of more than two hundred dollars in fines or the performance of more than two hundred hours of community restitution.

(2) Where disposition in separate disposition orders is imposed on a youth, the periods of community supervision contained in separate orders, if any, shall run concurrently. All other terms contained in separate disposition orders shall run consecutively.

Sec. 4. RCW 13.40.0357 and 2008 c 230 s 3 and 2008 c 158 s 1 are each reenacted and amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
. . . . .		
	Arson and Malicious Mischief	
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090(((~~(2) (a) and (c)~~)))	E
((~~E~~	~~Malicious Mischief 3 (9A.48.090(2)(b))~~	~~E~~))
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+
	Assault and Other Crimes Involving Physical Harm	
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045)	C+
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E

C+	Custodial Assault (9A.36.100)	D+
	Burglary and Trespass	
B+	Burglary 1 (9A.52.020)	C+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
	Drugs	
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Marihuana <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C

C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
	Firearms and Weapons	
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(iii))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
	Homicide	
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
	Kidnapping	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
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B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
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B+	Intimidating a Witness (9A.72.110)	C+
	Public Disturbance	
C+	Riot with Weapon (9A.84.010(2)(b))	D+
D+	Riot Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	Sex Crimes	
A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+

B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
A-	Child Molestation 1 (9A.44.083)	B+
B	Child Molestation 2 (9A.44.086)	C+
C	Failure to Register as a Sex Offender (((~~9A.44.130~~)) 9A.44.132)	D
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B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of a Stolen Vehicle (9A.56.068)	C
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
B	Theft of a Motor Vehicle (9A.56.065)	C
	Motor Vehicle Related Crimes	
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E

C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
	Other	
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1[1] (9A.76.110)	C
C	Escape 2[1] (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)[2]	V

[1]Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

[2]If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, D, or RCW 13.40.167.

((~~OPTION A~~

~~JUVENILE OFFENDER SENTENCING GRID STANDARD RANGE~~

	~~A+~~	~~180 WEEKS TO AGE 21 YEARS~~				
	~~A~~	~~103 WEEKS TO 129 WEEKS~~				
	~~A-~~	~~15-36 WEEKS EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS~~	~~52-65 WEEKS~~	~~80-100 WEEKS~~	~~103-129 WEEKS~~	
~~Current Offense Category~~	~~B+~~	~~15-36 WEEKS~~		~~52-65 WEEKS~~	~~80-100 WEEKS~~	~~103-129 WEEKS~~
	~~B~~	~~LOCAL SANCTIONS (LS)~~		~~15-36 WEEKS~~		~~52-65 WEEKS~~
	~~C+~~	~~LS~~			~~15-36 WEEKS~~	
	~~C~~	~~LS~~	~~Local Sanctions: 0 to 30 Days~~			~~15-36 WEEKS~~
	~~D+~~	~~LS~~	~~0 to 12 Months Community Supervision 0 to 150 Hours Community Restitution~~			
	~~D~~	~~LS~~	~~$0 to $500 Fine~~			
	~~E~~	~~LS~~				
		~~0~~	~~1~~	~~2~~	~~3~~	~~4 or more~~

~~PRIOR ADJUDICATIONS~~))

OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE

	A+	180 weeks to age 21 for all category A+ offenses				
	A	103-129 weeks for all category A offenses				
	A-	15-36 weeks Except 30-40 weeks for 15 to 17 year olds	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks

CATEGORY						
	C+	LS	LS	LS	15-36 weeks	15-36 weeks
	C	LS	LS	LS	LS	15-36 weeks
	D+	LS	LS	LS	LS	LS
	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
PRIOR ADJUDICATIONS		0	1	2	3	4 or more

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

OPTION B
SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender is:

(a) Adjudicated of an A+ offense;

(b) Fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060); or

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential burglary (RCW 9A.52.025), burglary in the second degree (RCW 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a witness (RCW 9A.72.110), violation of the uniform controlled substances act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Ordered to serve a disposition for a firearm violation under RCW 13.40.193; or

(d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

OR

OPTION C
CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR

OPTION D
MANIFEST INJUSTICE

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

Passed by the Senate March 6, 2012.
Passed by the House March 2, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 178

[Engrossed Second Substitute House Bill 2337]

K-12 EDUCATION—OPENLY LICENSED COURSEWARE

AN ACT Relating to open educational resources in K-12 education; adding a new section to chapter 28A.300 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** The legislature finds the state's recent adoption of common core K-12 standards provides an opportunity to develop a library of high-quality, openly licensed K-12 courseware that is aligned with these standards. By developing this library of openly licensed courseware and making it available to school districts free of charge, the state and school districts will be able to provide students with curricula and texts while substantially reducing the expenses that districts would otherwise incur in purchasing these materials. In addition, this library of openly licensed courseware will provide districts and students with a broader selection of materials, and materials that are more up-to-date.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

(1)(a) Subject to availability of amounts appropriated for this specific purpose, the superintendent of public instruction shall take the lead in identifying and developing a library of openly licensed courseware aligned with the common core state standards and placed under an attribution license, registered by a nonprofit or for-profit organization with domain expertise in open courseware, that allows others to use, distribute, and create derivative works based upon the digital material, while still allowing the authors or creators to retain the copyright and to receive credit for their efforts.

(b) During the course of identification and development of a library of openly licensed courseware, the superintendent:

(i) May contract with third parties for all or part of the development;

(ii) May adopt or adapt existing high quality openly licensed K-12 courseware aligned with the common core state standards;

(iii) May consider multiple sources of openly licensed courseware;

(iv) Must use best efforts to seek additional outside funding by actively partnering with private organizations;

(v) Must work collaboratively with other states that have adopted the common core state standards and collectively share results; and

(vi) Must include input from classroom practitioners, including teacher-librarians as defined by RCW 28A.320.240, in the results reported under subsection (2)(d) of this section.

(2) The superintendent of public instruction must also:

(a) Advertise to school districts the availability of openly licensed courseware, with an emphasis on the fact that the courseware is available at no cost to the districts;

(b) Identify an open courseware repository to which openly licensed courseware identified and developed under this section may be submitted, in which openly licensed courseware may be housed, and from which openly licensed courseware may be easily accessed, all at no cost to school districts;

(c) Provide professional development programs that offer support, guidance, and instruction regarding the creation, use, and continuous improvement of open courseware; and

(d) Report to the governor and the education committees of the legislature on a biennial basis, beginning December 1, 2013, and ending December 1, 2017, regarding identification and development of a library of openly licensed courseware aligned with the common core state standards and placed under an

attribution license, use by school districts of openly licensed courseware, and professional development programs provided.

(3) School districts may, but are not required to, use any of the openly licensed courseware.

(4) As used in this section, "courseware" includes the course syllabus, scope and sequence, instructional materials, modules, textbooks, including the teacher's edition, student guides, supplemental materials, formative and summative assessment supports, research articles, research data, laboratory activities, simulations, videos, open-ended inquiry activities, and any other educationally useful materials.

(5) The open educational resources account is created in the custody of the state treasurer. All receipts from funds collected under this section must be deposited into the account. Expenditures from the account may be used only for the development of openly licensed courseware as described in this section. Only the superintendent of public instruction or the superintendent'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.

(6) This section expires June 30, 2018.

Passed by the House March 5, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 179

[Engrossed Substitute House Bill 2347]

SPRING BLADE KNIVES—POSSESSION

AN ACT Relating to the possession of spring blade knives; amending RCW 9.41.250; adding a new section to chapter 9.41 RCW; and prescribing penalties.

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

Sec. 1. RCW 9.41.250 and 2011 c 13 s 1 are each amended to read as follows:

(1) Every person who:

(a) Manufactures, sells, or disposes of or possesses any instrument or weapon of the kind usually known as slung shot, sand club, or metal knuckles, or spring blade knife((~~, or any knife the blade of which is automatically released by a spring mechanism or other mechanical device, or any knife having a blade which opens, or falls, or is ejected into position by the force of gravity, or by an outward, downward, or centrifugal thrust or movement~~));

(b) Furtively carries with intent to conceal any dagger, dirk, pistol, or other dangerous weapon; or

(c) Uses any contrivance or device for suppressing the noise of any firearm unless the suppressor is legally registered and possessed in accordance with federal law,

is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(2) ((~~Subsection (1)(a) of this section does not apply to:~~

~~(a) The possession of a spring blade knife by a law enforcement officer while the officer:~~

~~(i) Is on official duty; or~~

~~(ii) Is transporting the knife to or from the place where the knife is stored when the officer is not on official duty; or~~

~~(b) The storage of a spring blade knife by a law enforcement officer.~~)) "Spring blade knife" means any knife, including a prototype, model, or other sample, with a blade that is automatically released by a spring mechanism or other mechanical device, or any knife having a blade which opens, or falls, or is ejected into position by the force of gravity, or by an outward, downward, or centrifugal thrust or movement. A knife that contains a spring, detent, or other mechanism designed to create a bias toward closure of the blade and that requires physical exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure to assist in opening the knife is not a spring blade knife.

NEW SECTION. **Sec. 2.** A new section is added to chapter 9.41 RCW to read as follows:

(1) RCW 9.41.250 does not apply to:

(a) The possession or use of a spring blade knife by a general authority law enforcement officer, firefighter or rescue member, Washington state patrol officer, or military member, while the officer or member:

(i) Is on official duty; or

(ii) Is transporting a spring blade knife to or from the place where the knife is stored when the officer or member is not on official duty; or

(iii) Is storing a spring blade knife;

(b) The manufacture, sale, transportation, transfer, distribution, or possession of spring blade knives pursuant to contract with a general authority law enforcement agency, fire or rescue agency, Washington state patrol, or military service, or pursuant to a contract with another manufacturer or a commercial distributor of knives for use, sale, or other disposition by the manufacturer or commercial distributor;

(c) The manufacture, transportation, transfer, distribution, or possession of spring blade knives, with or without compensation and with or without a contract, solely for trial, test, or other provisional use for evaluation and assessment purposes, by a general authority law enforcement agency, fire or rescue agency, Washington state patrol, military service, or a manufacturer or commercial distributor of knives.

(2) For the purposes of this section:

(a) "Military member" means an active member of the United States military or naval forces, or a Washington national guard member called to active duty or during training.

(b) "General law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state or any other state, and any agency, department, or division of any state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general.

(c) "General law enforcement officer" means any person who is commissioned and employed by an employer on a full-time, fully compensated

basis to enforce the criminal laws of the state of Washington generally. No person who is serving in a position that is basically clerical or secretarial in nature, or who is not commissioned shall be considered a law enforcement officer.

(d) "Fire or rescue agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state or any other state, and any agency, department, or division of any state government, having as its primary function the prevention, control, or extinguishment of fire or provision of emergency medical services or rescue actions for persons.

(e) "Firefighter or rescue member" means any person who is serving on a full-time, fully compensated basis as a member of a fire or rescue agency to prevent, control, or extinguish fire or provide emergency medical services or rescue actions for persons. No person who is serving in a position that is basically clerical or secretarial in nature shall be considered a firefighter or rescue member.

(f) "Military service" means the active, reserve, or national guard components of the United States military, including the army, navy, air force, marines, and coast guard.

Passed by the House March 5, 2012.
Passed by the Senate March 1, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 180

[Substitute House Bill 2357]

SALES AND USE TAX—CHEMICAL DEPENDENCY, MENTAL HEALTH TREATMENT, THERAPEUTIC COURTS

AN ACT Relating to sales and use tax for chemical dependency, mental health treatment, and therapeutic courts; and amending RCW 82.14.460.

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

Sec. 1. RCW 82.14.460 and 2011 c 347 s 1 are each amended to read as follows:

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

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

(2) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county for a county's tax and within a city for a city's

tax. The rate of tax equals one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section must be used solely for the purpose of providing for the operation or delivery of chemical dependency or mental health treatment programs and services and for the operation or delivery of therapeutic court programs and services. For the purposes of this section, "programs and services" includes, but is not limited to, treatment services, case management, and housing that are a component of a coordinated chemical dependency or mental health treatment program or service.

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

(a) For a county with a population larger than twenty-five thousand or a city with a population over thirty thousand, which initially imposed the tax authorized under this section prior to January 1, 2012, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to fifty percent may be used to supplant existing funding in calendar years 2011-2012; up to forty percent may be used to supplant existing funding in calendar year 2013; up to thirty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016;

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

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

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

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

Passed by the House March 8, 2012.

Passed by the Senate March 8, 2012.

Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 181

[Engrossed Substitute House Bill 2366]

SUICIDE ASSESSMENT, TREATMENT, AND MANAGEMENT

AN ACT Relating to requiring certain health professionals to complete education in suicide assessment, treatment, and management; adding a new section to chapter 43.70 RCW; and creating new sections.

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

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

(a) According to the centers for disease control and prevention:

(i) In 2008, more than thirty-six thousand people died by suicide in the United States, making it the tenth leading cause of death nationally.

(ii) During 2007-2008, an estimated five hundred sixty-nine thousand people visited hospital emergency departments with self-inflicted injuries in the United States, seventy percent of whom had attempted suicide.

(iii) During 2008-2009, the average percentages of adults who thought, planned, or attempted suicide in Washington were higher than the national average.

(b) According to a national study, veterans face an elevated risk of suicide as compared to the general population, more than twice the risk among male veterans. Another study has indicated a positive correlation between posttraumatic stress disorder and suicide.

(i) Washington state is home to more than sixty thousand men and women who have deployed in support of the wars in Iraq and Afghanistan.

(ii) Research continues on how the effects of wartime service and injuries such as traumatic brain injury, posttraumatic stress disorder, or other service-related conditions, may increase the number of veterans who attempt suicide.

(iii) As more men and women separate from the military and transition back into civilian life, community mental health providers will become a vital resource to help these veterans and their families deal with issues that may arise.

(c) Suicide has an enormous impact on the family and friends of the victim as well as the community as a whole.

(d) Approximately ninety percent of people who die by suicide had a diagnosable psychiatric disorder at the time of death. Most suicide victims exhibit warning signs or behaviors prior to an attempt.

(e) Improved training and education in suicide assessment, treatment, and management has been recommended by a variety of organizations, including the United States department of health and human services and the institute of medicine.

(2) It is therefore the intent of the legislature to help lower the suicide rate in Washington by requiring certain health professionals to complete training in suicide assessment, treatment, and management as part of their continuing education, continuing competency, or recertification requirements.

(3) The legislature does not intend to expand or limit the existing scope of practice of any health professional affected by this act.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.70 RCW to read as follows:

(1)(a) Beginning January 1, 2014, each of the following professionals certified or licensed under Title 18 RCW shall, at least once every six years, complete a training program in suicide assessment, treatment, and management that is approved, in rule, by the relevant disciplining authority:

(i) An adviser or counselor certified under chapter 18.19 RCW;

(ii) A chemical dependency professional licensed under chapter 18.205 RCW;

(iii) A marriage and family therapist licensed under chapter 18.225 RCW;

(iv) A mental health counselor licensed under chapter 18.225 RCW;

(v) An occupational therapy practitioner licensed under chapter 18.59 RCW;

(vi) A psychologist licensed under chapter 18.83 RCW; and

(vii) An advanced social worker or independent clinical social worker licensed under chapter 18.225 RCW.

(b) The requirements in (a) of this subsection apply to a person holding a retired active license for one of the professions in (a) of this subsection.

(2)(a)(i) Except as provided in (a)(ii) of this subsection, a professional listed in subsection (1)(a) of this section must complete the first training required by this section during the first full continuing education reporting period after the effective date of this section or the first full continuing education reporting period after initial licensure or certification, whichever occurs later.

(ii) A professional listed in subsection (1)(a) of this subsection applying for initial licensure on or after the effective date of this section may delay completion of the first training required by this section for six years after initial licensure if he or she can demonstrate successful completion of a six-hour training program in suicide assessment, treatment, and management that:

(A) Was completed no more than six years prior to the application for initial licensure; and

(B) Is listed on the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center.

(3) The hours spent completing a training program in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education or continuing competency requirements for each profession.

(4)(a) A disciplining authority may, by rule, specify minimum training and experience that is sufficient to exempt a professional from the training requirements in subsection (1) of this section.

(b) The board of occupational therapy practice may exempt occupational therapists from the training requirements of subsection (1) of this section by specialty, if the specialty in question has only brief or limited patient contact.

(5)(a) The secretary and the disciplining authorities shall work collaboratively to develop a model list of training programs in suicide assessment, treatment, and management.

(b) When developing the model list, the secretary and the disciplining authorities shall:

(i) Consider suicide assessment, treatment, and management training programs of at least six hours in length listed on the best practices registry of the

American foundation for suicide prevention and the suicide prevention resource center; and

(ii) Consult with public and private institutions of higher education, experts in suicide assessment, treatment, and management, and affected professional associations.

(c) The secretary and the disciplining authorities shall report the model list of training programs to the appropriate committees of the legislature no later than December 15, 2013.

(6) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under chapter 18.130 RCW.

(7) The secretary and the disciplining authorities affected by this section shall adopt any rules necessary to implement this section.

(8) For purposes of this section:

(a) "Disciplining authority" has the same meaning as in RCW 18.130.020.

(b) "Training program in suicide assessment, treatment, and management" means an empirically supported training program approved by the appropriate disciplining authority that contains the following elements: Suicide assessment, including screening and referral, suicide treatment, and suicide management. The disciplining authority may approve a training program that excludes one of the elements if the element is inappropriate for the profession in question based on the profession's scope of practice. A training program that includes only screening and referral elements shall be at least three hours in length. All other training programs approved under this section shall be at least six hours in length.

(9) A state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

(10) An employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

NEW SECTION. **Sec. 3.** (1) The secretary of health shall conduct a study evaluating the effect of evidence-based suicide assessment, treatment, and management training on the ability of licensed health care professionals to identify, refer, treat, and manage patients with suicidal ideation. This study shall at a minimum:

(a) Review available research and literature regarding the relationship between licensed health professionals completing training in suicide assessment, treatment, and management and patient suicide rates;

(b) Assess which licensed health professionals are best situated to positively influence the mental health behavior of individuals with suicidal ideation;

(c) Evaluate the impact of suicide assessment, treatment, and management training on veterans with suicidal ideation; and

(d) Review curriculum of health profession programs offered at Washington state educational institutions regarding suicide prevention.

(2) In conducting this study the secretary may collaborate with other health profession disciplinary boards and commissions, professional associations, and other interested parties.

(3) The secretary shall submit a report to the legislature no later than December 15, 2013, summarizing the findings of this study.

NEW SECTION. **Sec. 4.** This act may be known and cited as the Matt Adler suicide assessment, treatment, and management training act of 2012.

Passed by the House March 3, 2012.
Passed by the Senate February 28, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 182

[Substitute House Bill 2389]

ECONOMIC AND REVENUE FORECASTS—SUBMISSION DATES

AN ACT Relating to modifying the submission dates for economic and revenue forecasts; amending RCW 82.33.020; and providing an effective date.

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

Sec. 1. RCW 82.33.020 and 2005 c 319 s 137 are each amended to read as follows:

(1) Four times each year the supervisor ((~~shall~~)) must prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010:

(a) An official state economic and revenue forecast;

(b) An unofficial state economic and revenue forecast based on optimistic economic and revenue projections; and

(c) An unofficial state economic and revenue forecast based on pessimistic economic and revenue projections.

(2) The supervisor ((~~shall~~)) must submit forecasts prepared under this section, along with any unofficial forecasts provided under RCW 82.33.010, to the governor and the members of the committees on ways and means and the chairs of the committees on transportation of the senate and house of representatives, including one copy to the staff of each of the committees, on or before November 20th, February 20th in the even-numbered years, March 20th in the odd-numbered years, June ((~~20th~~)) 27th, and September ((~~20th~~)) 27th. All forecasts ((~~shall~~)) must include both estimated receipts and estimated revenues in conformance with generally accepted accounting principles as provided by RCW 43.88.037.

(3) All agencies of state government ((~~shall~~)) must provide to the supervisor immediate access to all information relating to economic and revenue forecasts. Revenue collection information ((~~shall~~)) must be available to the supervisor the first business day following the conclusion of each collection period.

(4) The economic and revenue forecast supervisor and staff ((~~shall~~)) must co-locate and share information, data, and files with the tax research section of the department of revenue but ((~~shall~~)) may not duplicate the duties and functions of one another.

(5) As part of its forecasts under subsection (1) of this section, the supervisor ((~~shall~~)) must provide estimated revenue from tuition fees as defined in RCW 28B.15.020.

NEW SECTION. **Sec. 2.** This act takes effect October 1, 2012.

Passed by the House February 10, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 183

[Second Substitute House Bill 2443]
DRIVING UNDER THE INFLUENCE

AN ACT Relating to increasing accountability of persons who drive impaired; amending RCW 2.28.175, 9.94A.475, 9.94A.640, 9.95.210, 9.96.060, 38.52.430, 46.20.308, 46.20.385, 46.20.720, 46.20.745, 46.61.5249, 46.61.540, and 43.43.395; reenacting and amending RCW 46.61.500 and 46.61.5055; adding a new section to chapter 43.43 RCW; prescribing penalties; and providing an effective date.

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

Sec. 1. RCW 2.28.175 and 2011 c 293 s 10 are each amended to read as follows:

(1) Counties may establish and operate DUI courts. Municipalities may enter into cooperative agreements with counties that have DUI courts to provide DUI court services.

(2) For the purposes of this section, "DUI court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism of impaired driving among nonviolent, alcohol abusing offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic testing for alcohol use and, if applicable, drug use; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a DUI court program must first:

(i) Exhaust all federal funding that is available to support the operations of its DUI court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for DUI court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for DUI court operations and associated services. However, until June 30, 2014, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a DUI court established as of January 1, 2011.

(b) Any ((~~county~~)) jurisdiction that establishes a DUI court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The DUI court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from alcohol treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030, vehicular homicide under

RCW 46.61.520, vehicular assault under RCW 46.61.522, or an equivalent out-of-state offense; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) That is vehicular homicide or vehicular assault;

(D) During which the defendant used a firearm; or

(E) During which the defendant caused substantial or great bodily harm or death to another person.

Sec. 2. RCW 9.94A.475 and 2002 c 290 s 15 are each amended to read as follows:

Any and all recommended sentencing agreements or plea agreements and the sentences for any and all felony crimes shall be made and retained as public records if the felony crime involves:

(1) Any violent offense as defined in this chapter;

(2) Any most serious offense as defined in this chapter;

(3) Any felony with a deadly weapon special verdict under RCW ((~~9.94A.602~~)) 9.94A.825;

(4) Any felony with any deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both; ((~~and/or~~))

(5) The felony crimes of possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun in a felony; or

(6) The felony crime of driving a motor vehicle while under the influence of intoxicating liquor or any drug as defined in RCW 46.61.502, and felony physical control of a motor vehicle while under the influence of intoxicating liquor or any drug as defined in RCW 46.61.504.

Sec. 3. RCW 9.94A.640 and 2006 c 73 s 8 are each amended to read as follows:

(1) Every offender who has been discharged under RCW 9.94A.637 may apply to the sentencing court for a vacation of the offender's record of conviction. If the court finds the offender meets the tests prescribed in subsection (2) of this section, the court may clear the record of conviction by: (a) Permitting the offender to withdraw the offender's plea of guilty and to enter a plea of not guilty; or (b) if the offender has been convicted after a plea of not guilty, by the court setting aside the verdict of guilty; and (c) by the court dismissing the information or indictment against the offender.

(2) An offender may not have the record of conviction cleared if: (a) There are any criminal charges against the offender pending in any court of this state or another state, or in any federal court; (b) the offense was a violent offense as defined in RCW 9.94A.030; (c) the offense was a crime against persons as defined in RCW 43.43.830; (d) the offender has been convicted of a new crime in this state, another state, or federal court since the date of the offender's discharge under RCW 9.94A.637; (e) the offense is a class B felony and less than ten years have passed since the date the applicant was discharged under RCW 9.94A.637; (f) the offense was a class C felony, other than a class C felony described in RCW 46.61.502(6) or 46.61.504(6), and less than five years have

passed since the date the applicant was discharged under RCW 9.94A.637; or (g) the offense was a class C felony described in RCW 46.61.502(6) or 46.61.504(6) ((~~and less than ten years have passed since the applicant was discharged under RCW 9.94A.637~~)).

(3) Once the court vacates a record of conviction under subsection (1) of this section, the fact that the offender has been convicted of the offense shall not be included in the offender's criminal history for purposes of determining a sentence in any subsequent conviction, and the offender shall be released from all penalties and disabilities resulting from the offense. For all purposes, including responding to questions on employment applications, an offender whose conviction has been vacated may state that the offender has never been convicted of that crime. Nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

Sec. 4. RCW 9.95.210 and 2011 1st sp.s. c 40 s 7 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection in granting probation, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(b) For a defendant sentenced under RCW 46.61.5055, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension continue upon such conditions and for such time as the court shall designate, not to exceed five years. The court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. Any time before entering an order terminating probation, the court may modify or revoke its order suspending the imposition or execution of the sentence if the defendant violates or fails to carry out any of the conditions of the suspended sentence.

(2) In the order granting probation and as a condition thereof, the superior court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required; (d) following

consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.

(3) The superior court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the superior court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the superior court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the superior court shall hold a restitution hearing and shall enter a restitution order.

(4) In granting probation, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanant probationers within its jurisdiction, the superior court misdemeanant probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanant probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If the probationer has been ordered to make restitution and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the superior court has ordered supervision and restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation. For defendants found guilty in district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

(6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to sentences imposed under this section.

Sec. 5. RCW 9.96.060 and 2001 c 140 s 1 are each amended to read as follows:

(1) Every person convicted of a misdemeanor or gross misdemeanor offense who has completed all of the terms of the sentence for the misdemeanor or gross misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the tests prescribed in subsection (2) of this section, the court may in its discretion vacate the record of conviction by: (a)(i) Permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or (ii) if

the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and (b) the court dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

(2) An applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if any one of the following is present:

(a) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court;

(b) The offense was a violent offense as defined in RCW 9.94A.030 or an attempt to commit a violent offense;

(c) The offense was a violation of RCW 46.61.502 (driving while under the influence), 46.61.504 (actual physical control while under the influence), ((~~or~~)) 9.91.020 (operating a railroad, etc. while intoxicated), or the offense is considered a "prior offense" under RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense;

(d) The offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses);

(e) The applicant was convicted of a misdemeanor or gross misdemeanor offense as defined in RCW 10.99.020, or the court determines after a review of the court file that the offense was committed by one family member or household member against another, or the court, after considering the damage to person or property that resulted in the conviction, any prior convictions for crimes defined in RCW 10.99.020, or for comparable offenses in another state or in federal court, and the totality of the records under review by the court regarding the conviction being considered for vacation, determines that the offense involved domestic violence, and any one of the following factors exist:

(i) The applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought, or has not provided that notification to the court;

(ii) The applicant has previously had a conviction for domestic violence. For purposes of this subsection, however, if the current application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction;

(iii) The applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction; or

(iv) Less than five years have elapsed since the person completed the terms of the original conditions of the sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing;

(f) For any offense other than those described in (e) of this subsection, less than three years have passed since the person completed the terms of the sentence, including any financial obligations;

(g) The offender has been convicted of a new crime in this state, another state, or federal court since the date of conviction;

(h) The applicant has ever had the record of another conviction vacated; or

(i) The applicant is currently restrained, or has been restrained within five years prior to the vacation application, by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains one party from contacting the other party.

(3) Once the court vacates a record of conviction under subsection (1) of this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated under subsection (1) of this section may state that he or she has never been convicted of that crime. Nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

(4) All costs incurred by the court and probation services shall be paid by the person making the motion to vacate the record unless a determination is made pursuant to chapter 10.101 RCW that the person making the motion is indigent, at the time the motion is brought.

(5) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

Sec. 6. RCW 38.52.430 and 1993 c 251 s 2 are each amended to read as follows:

A person whose intoxication causes an incident resulting in an appropriate emergency response, and who, in connection with the incident, has been found guilty of or has had their prosecution deferred for (1) driving while under the influence of intoxicating liquor or any drug, RCW 46.61.502; (2) operating an aircraft under the influence of intoxicants or drugs, RCW 47.68.220; (3) use of a vessel while under the influence of alcohol or drugs, RCW ((~~88.12.100~~)) 79A.60.040; (4) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (5) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is liable for the expense of an emergency response by a public agency to the incident.

The expense of an emergency response is a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied. Following a conviction of an offense listed in this section, and prior to sentencing, the prosecution may present to the court information setting forth the expenses incurred by the public agency for its emergency response to the incident. Upon a finding by the court that the expenses are reasonable, the court shall order the defendant to reimburse the public agency. The cost reimbursement shall be

included in the sentencing order as an additional monetary obligation of the defendant and may not be substituted for any other fine or cost required or allowed by statute. The court may establish a payment schedule for the payment of the cost reimbursement, separate from any payment schedule imposed for other fines and costs.

In no event shall a person's liability under this section for the expense of an emergency response exceed ((~~one~~)) two thousand five hundred dollars for a particular incident.

If more than one public agency makes a claim for payment from an individual for an emergency response to a single incident under the provisions of this section, and the sum of the claims exceeds the amount recovered, the division of the amount recovered shall be determined by an interlocal agreement consistent with the requirements of chapter 39.34 RCW.

Sec. 7. RCW 46.20.308 and 2008 c 282 s 2 are each amended to read as follows:

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

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

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

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

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if the driver is age twenty-one or over and the test indicates the alcohol concentration of the driver's breath or blood is 0.08 or more, or if the

driver is under age twenty-one and the test indicates the alcohol concentration of the driver's breath or blood is 0.02 or more, or if the driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

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

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of felony driving under the influence of intoxicating liquor or drugs under RCW 46.61.502(6), felony physical control of a motor vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6), vehicular homicide as provided in RCW 46.61.520, or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

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

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

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

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

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

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

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the

person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

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

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

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

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

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

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

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

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

(9) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension,

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

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

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

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(11) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has

been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

Sec. 8. RCW 46.20.385 and 2011 c 293 s 1 are each amended to read as follows:

(1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or a violation of RCW 46.61.520(1)(a) or 46.61.522(1)(b), or who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, or who is otherwise permitted under subsection (8) of this section, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours. However, when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment, the employer exemption does not apply.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055. Beginning with incidents occurring on or after September 1, 2011, when calculating the period of time for the restriction under RCW 46.20.720(3), the department must also give the person a day-for-day credit for the time

period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection (1)(c)(iii), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if the applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

(8)(a) Any person licensed under this chapter who is convicted of a violation of RCW 46.61.500 when the charge was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, may submit to the department an application for an ignition interlock driver's license under this section.

(b) A person who does not have any driver's license under this chapter, but who would otherwise be eligible under this section to apply for an ignition interlock license, may submit to the department an application for an ignition interlock license. The department may require the person to take any driver's licensing examination under chapter 46.20 RCW and may require the person to also apply and qualify for a temporary restricted driver's license under RCW 46.20.391.

Sec. 9. RCW 46.20.720 and 2011 c 293 s 6 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.5055 and subject to the exceptions listed in that statute, the court shall order any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to ((~~apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have~~)) comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person. The court shall order any person participating in a deferred prosecution program under RCW 10.05.020 for a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance. The department shall require that a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of a violation of RCW 46.61.5249 or 46.61.500 and is required under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration

pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours. However, when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment, the employer exemption does not apply.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. Subject to the provisions of subsections (4) and (5) of this section, the period of time of the restriction will be no less than:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years.

(4) A restriction imposed under subsection (3) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the four consecutive months prior to the date of release:

(a) An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more;

(b) Failure to take or pass any required retest; or

(c) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

(5) For a person required to install an ignition interlock device pursuant to RCW 46.61.5249(4) or 46.61.500(3), the period of time of the restriction shall be for six months and shall be subject to subsection (4) of this section.

(6) In addition to any other costs associated with the use of an ignition interlock device imposed on the person restricted under this section, the person shall pay an additional fee of twenty dollars per month. Payments must be made directly to the ignition interlock company. The company shall remit the additional twenty dollar fee to the department to be deposited into the ignition interlock device revolving account.

Sec. 10. RCW 46.20.745 and 2008 c 282 s 10 are each amended to read as follows:

(1) The ignition interlock device revolving account program is created within the department to assist in covering the monetary costs of installing, removing, and leasing an ignition interlock device, and applicable licensing, for indigent persons who are required under RCW 46.20.385, 46.20.720, and 46.61.5055 to install an ignition interlock device in all vehicles owned or operated by the person. For purposes of this subsection, "indigent" has the same meaning as in RCW 10.101.010, as determined by the department.

(2) A pilot program is created within the ignition interlock device revolving account program for the purpose of monitoring compliance by persons required to use ignition interlock devices and by ignition interlock companies and vendors.

(3) The department, the state patrol, and the Washington traffic safety commission shall coordinate to establish a compliance pilot program that will target at least one county from eastern Washington and one county from western Washington, as determined by the department, state patrol, and Washington traffic safety commission.

(4) At a minimum, the compliance pilot program shall:

(a) Review the number of ignition interlock devices that are required to be installed in the targeted county and the number of ignition interlock devices actually installed;

(b) Work to identify those persons who are not complying with ignition interlock requirements or are repeatedly violating ignition interlock requirements; and

(c) Identify ways to track compliance and reduce noncompliance.

(5) As part of monitoring compliance, the Washington traffic safety commission shall also track recidivism for violations of RCW 46.61.502 and 46.61.504 by persons required to have an ignition interlock driver's license under RCW 46.20.385 and 46.20.720.

Sec. 11. RCW 46.61.500 and 2011 c 293 s 4 and 2011 c 96 s 34 are each reenacted and amended to read as follows:

(1) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Violation of the provisions of this section is a gross misdemeanor punishable by imprisonment for up to three hundred sixty-four days and by a fine of not more than five thousand dollars.

(2)(a) Subject to (b) of this subsection, the license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days.

(b) When a reckless driving conviction is a result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, the department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under an administrative action arising out of the same incident. During any period of suspension, revocation, or denial due to a conviction for reckless driving as the result of a charge originally filed as a violation of RCW 46.61.502 or 46.61.504, any person who has obtained an ignition interlock driver's license under RCW 46.20.385 may continue to drive a motor vehicle pursuant to the provision of the ignition interlock driver's license without obtaining a separate temporary restricted driver's license under RCW 46.20.391.

(3)(a) Except as provided under (b) of this subsection, a person convicted of reckless driving who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance.

(b) A person convicted of reckless driving shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of

intoxicating liquor or any drug or RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug.

Sec. 12. RCW 46.61.5055 and 2011 c 293 s 7 and 2011 c 96 s 35 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than three hundred sixty-four days. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than three hundred sixty-four days. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than three hundred sixty-four days and sixty days of electronic home monitoring. In lieu of the mandatory minimum term of sixty days electronic home monitoring, the court may order at least an additional four days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than three hundred sixty-four days and ninety days of electronic home monitoring. In lieu of the mandatory minimum term of ninety days electronic home monitoring, the court may order at least an additional six days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than three hundred sixty-four days and one hundred twenty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred twenty days of electronic home monitoring, the court may order at least an additional eight days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than three hundred sixty-four days and one hundred fifty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred fifty days of electronic home monitoring, the court may order at least an additional ten days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

(a) The person has four or more prior offenses within ten years; or

(b) The person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5)(a) The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to ((~~apply for an ignition interlock driver's license from the department and to have~~)) comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) ((~~The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.~~

~~(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.~~

~~(d) The court may waive the requirement that a person apply for an ignition interlock driver's license if the court makes a specific finding in writing that:~~

~~(i) The person lives out-of-state and the devices are not reasonably available in the person's local area;~~

~~(ii) The person does not operate a vehicle; or~~

~~(iii) The person is not eligible to receive an ignition interlock driver's license under RCW 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already applied for or is already in possession of an ignition interlock driver's license, has never had a driver's license, has been certified under chapter 74.20A RCW as noncompliant with a child support order, or is subject to any other condition or circumstance that makes the person ineligible to obtain an ignition interlock driver's license.~~

~~(e) If a court finds that a person is not eligible to receive an ignition interlock driver's license under this section, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility.~~

~~(f)~~)) If the court orders that a person refrain from consuming any alcohol ((~~and requires the person to apply for an ignition interlock driver's license, and the person states that he or she does not operate a motor vehicle or the person is~~

~~ineligible to obtain an ignition interlock driver's license~~)), the court ((~~shall~~)) may order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. ((~~Alcohol monitoring ordered under this subsection must be for the period of the mandatory license suspension or revocation.~~)) The person shall pay for the cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that are available from an alternative source identified by the court. The county or municipality where the penalty is being imposed shall determine the cost.

(((~~(g) The period of time for which ignition interlock use is required will be as follows:~~

~~(i) For a person who has not previously been restricted under this section, a period of one year;~~

~~(ii) For a person who has previously been restricted under (g)(i) of this subsection, a period of five years;~~

~~(iii) For a person who has previously been restricted under (g)(ii) of this subsection, a period of ten years.~~

~~(h) Beginning with incidents occurring on or after September 1, 2011, when calculating the period of time for the restriction under RCW 46.20.720(3), the department must also give the person a day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection (5)(h), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).~~))

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-four days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-four days.

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(3).

(14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed

as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; ((~~or~~))

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522; or

(ix) A deferred prosecution granted in another state for a violation of driving or having physical control of a vehicle while under the influence of intoxicating liquor or any drug if the out-of-state deferred prosecution is equivalent to the deferred prosecution under chapter 10.05 RCW, including a requirement that the defendant participate in a chemical dependency treatment program;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years before or after the arrest for the current offense.

Sec. 13. RCW 46.61.5249 and 2011 c 293 s 5 are each amended to read as follows:

(1)(a) A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug or exhibits the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects.

(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed an illegal drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.

(c) Negligent driving in the first degree is a misdemeanor.

(2) For the purposes of this section:

(a) "Negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

(b) "Exhibiting the effects of having consumed liquor" means that a person has the odor of liquor on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor in it; or

(ii) Is shown by other evidence to have recently consumed liquor.

(c) "Exhibiting the effects of having consumed an illegal drug" means that a person by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed an illegal drug and either:

(i) Is in possession of an illegal drug; or

(ii) Is shown by other evidence to have recently consumed an illegal drug.

(d) "Exhibiting the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects" means that a person by speech, manner, appearance, behavior, or lack of coordination or otherwise exhibits that he or she has inhaled or ingested a chemical and either:

(i) Is in possession of the canister or container from which the chemical came; or

(ii) Is shown by other evidence to have recently inhaled or ingested a chemical for its intoxicating or hallucinatory effects.

(e) "Illegal drug" means a controlled substance under chapter 69.50 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings, or a legend drug under chapter 69.41 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.

(3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

(4) A person convicted of negligent driving in the first degree who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person.

Sec. 14. RCW 46.61.540 and 1975 1st ex.s. c 287 s 5 are each amended to read as follows:

The word "drugs", as used in RCW 46.61.500 through 46.61.535, shall include but not be limited to those drugs and substances regulated by chapters 69.41 and 69.50 RCW and any chemical inhaled or ingested for its intoxicating or hallucinatory effects.

NEW SECTION. **Sec. 15.** A new section is added to chapter 43.43 RCW to read as follows:

(1) As part of the state patrol's authority to provide standards for certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, the state patrol shall by rule establish a fee schedule and collect fees from ignition interlock manufacturers, technicians, providers, and persons required under RCW 46.20.385, 46.20.720, and 46.61.5055 to install an ignition interlock device in all vehicles owned or

operated by the person. At a minimum, the fees must be set at a level necessary to support effective performance of the duties identified in this section. The state patrol must report back to the transportation committees of the legislature and the office of financial management by December 1st of each year on the level of the fees that have been adopted and whether those fees are sufficient to cover the cost of performing the duties listed in this section.

(2) Fees collected under this section must be deposited into the highway safety account to be used solely to fund the Washington state patrol impaired driving section projects.

Sec. 16. RCW 43.43.395 and 2010 c 268 s 2 are each amended to read as follows:

(1) The state patrol shall by rule provide standards for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, as defined under RCW 46.04.215, and equipment as outlined under this section, and may inspect the records and equipment of manufacturers and vendors during regular business hours for compliance with statutes and rules and may suspend or revoke certification for any noncompliance. The state patrol may only inspect ignition interlock devices in the vehicles of customers for proper installation and functioning when installation is being done at the vendors' place of business.

(2)(a) When a certified service provider or individual installer of ignition interlock devices is found to be out of compliance, the installation privileges of that certified service provider or individual installer may be suspended or revoked until the certified service provider or individual installer comes into compliance. During any suspension or revocation period, the certified service provider or individual installer is responsible for notifying affected customers of any changes in their service agreement.

(b) A certified service provider or individual installer whose certification is suspended or revoked for noncompliance has a right to an administrative hearing under chapter 34.05 RCW to contest the suspension or revocation, or both. For the administrative hearing, the procedure and rules of evidence are as specified in chapter 34.05 RCW, except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the receipt of the notice of suspension or revocation.

(3)(a) An ignition interlock device must employ fuel cell technology. For the purposes of this subsection, "fuel cell technology" consists of the following electrochemical method: An electrolyte designed to oxidize the alcohol and release electrons to be collected by an active electrode; a current flow is generated within the electrode proportional to the amount of alcohol oxidized on the fuel cell surface; and the electrical current is measured and reported as breath alcohol concentration. Fuel cell technology is highly specific for alcohols.

(b) When reasonably available in the area, as determined by the state patrol, an ignition interlock device must employ technology capable of taking a photo identification of the user giving the breath sample and recording on the photo the time the breath sample was given.

(c) To be certified, an ignition interlock device must:

(i) Meet or exceed the minimum test standards according to rules adopted by the state patrol. Only a notarized statement from a laboratory that is certified

by the international organization of standardization and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards. The notarized statement must include the name and signature of the person in charge of the tests under the following statement:

"Two samples of (model name), manufactured by (manufacturer) were tested by (laboratory) certified by the Internal Organization of Standardization. They do meet or exceed all specifications listed in the Federal Register, Volume 71, Number 31 (57 FR 11772), Breath Alcohol Ignition Interlock Devices (BAIID), NHTSA 2005-23470."; and

(ii) Be maintained in accordance with the rules and standards adopted by the state patrol.

NEW SECTION. **Sec. 17.** This act takes effect August 1, 2012.

Passed by the House March 8, 2012.
Passed by the Senate March 8, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 184

[Engrossed Substitute House Bill 2582]

HEALTH CARE FACILITIES—BILLING PRACTICES

AN ACT Relating to billing practices for health care services; adding a new section to chapter 70.01 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 70.01 RCW to read as follows:

(1) Prior to the delivery of nonemergency services, a provider-based clinic that charges a facility fee shall provide a notice to any patient that the clinic is licensed as part of the hospital and the patient may receive a separate charge or billing for the facility component, which may result in a higher out-of-pocket expense.

(2) Each health care facility must post prominently in locations easily accessible to and visible by patients, including its web site, a statement that the provider-based clinic is licensed as part of the hospital and the patient may receive a separate charge or billing for the facility, which may result in a higher out-of-pocket expense.

(3) Nothing in this section applies to laboratory services, imaging services, or other ancillary health services not provided by staff employed by the health care facility.

(4) As part of the year-end financial reports submitted to the department of health pursuant to RCW 43.70.052, all hospitals with provider-based clinics that bill a separate facility fee shall report:

(a) The number of provider-based clinics owned or operated by the hospital that charge or bill a separate facility fee;

(b) The number of patient visits at each provider-based clinic for which a facility fee was charged or billed for the year;

(c) The revenue received by the hospital for the year by means of facility fees at each provider-based clinic; and

(d) The range of allowable facility fees paid by public or private payers at each provider-based clinic.

(5) For the purposes of this section:

(a) "Facility fee" means any separate charge or billing by a provider-based clinic in addition to a professional fee for physicians' services that is intended to cover building, electronic medical records systems, billing, and other administrative and operational expenses.

(b) "Provider-based clinic" means the site of an off-campus clinic or provider office located at least two hundred fifty yards from the main hospital buildings or as determined by the centers for medicare and medicaid services, that is owned by a hospital licensed under chapter 70.41 RCW or a health system that operates one or more hospitals licensed under chapter 70.41 RCW, is licensed as part of the hospital, and is primarily engaged in providing diagnostic and therapeutic care including medical history, physical examinations, assessment of health status, and treatment monitoring. This does not include clinics exclusively designed for and providing laboratory, x-ray, testing, therapy, pharmacy, or educational services and does not include facilities designated as rural health clinics.

NEW SECTION. **Sec. 2.** This act takes effect January 1, 2013.

Passed by the House March 3, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 185

[Engrossed Substitute House Bill 2614]

HOMEOWNERS IN CRISIS—ASSISTANCE

AN ACT Relating to assisting homeowners in crisis by providing alternatives, remedies, and assistance; amending RCW 18.86.120, 4.16.040, 61.24.031, 61.24.160, 61.24.163, 61.24.169, 61.24.174, 61.24.030, 61.24.040, 61.24.172, 61.24.010, and 61.24.050; adding a new section to chapter 64.04 RCW; adding a new section to chapter 61.24 RCW; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 64.04 RCW to read as follows:

(1) If the beneficiary or mortgagee, or its assignees, of debt secured by owner-occupied real property intends to release its deed of trust or mortgage in the real property for less than full payment of the secured debt, it shall provide upon its first written notice to the borrower the following information in substantially the following form:

"To: [Name of borrower] DATE:

Please take note that [name of beneficiary or mortgagee, or its assignees], in releasing its security interest in this owner-occupied real property, [waives or reserves] the right to collect that amount that constitutes full payment of the secured debt. The amount of debt outstanding as of the date of this letter is

$. . . . .. However, nothing in this letter precludes the borrower from negotiating with the [name of beneficiary or mortgagee, or its assignees] for a full release of this outstanding debt.

If [name of beneficiary or mortgagee, or its assignees] does not initiate a court action to collect the outstanding debt within three years on the date which it released its security interest, the right to collect the outstanding debt is forfeited."

(2) If the beneficiary or mortgagee, or its assignees, of debt secured by owner-occupied real property intends to pursue collection of the outstanding debt, it must initiate a court action to collect the remaining debt within three years from the date on which it released its deed of trust or mortgage in the owner-occupied real property or else it forfeits any right to collect the remaining debt.

(3) This section applies only to debts incurred by individuals primarily for personal, family, or household purposes. This section does not apply to debts for business, commercial, or agricultural purposes.

(4) For the purposes of this section, "owner-occupied real property" means real property consisting solely of a single-family residence, a residential condominium unit, or a residential cooperative unit that is the principal residence of the borrower.

Sec. 2. RCW 18.86.120 and 1997 c 217 s 7 are each amended to read as follows:

(1) The pamphlet required under RCW 18.86.030(1)(f) shall consist of the entire text of RCW 18.86.010 through 18.86.030 and 18.86.040 through 18.86.110 with a separate cover page. The pamphlet shall be 8 1/2 by 11 inches in size, the text shall be in print no smaller than 10-point type, the cover page shall be in print no smaller than 12-point type, and the title of the cover page "The Law of Real Estate Agency" shall be in print no smaller than 18-point type. The cover page shall be in the following form:

The Law of Real Estate Agency

This pamphlet describes your legal rights in dealing with a real estate broker or salesperson. Please read it carefully before signing any documents.

The following is only a brief summary of the attached law:

Sec. 1. Definitions. Defines the specific terms used in the law.

Sec. 2. Relationships between Licensees and the Public. States that a licensee who works with a buyer or tenant represents that buyer or tenant—unless the licensee is the listing agent, a seller's subagent, a dual agent, the seller personally or the parties agree otherwise. Also states that in a transaction involving two different licensees affiliated with the same broker, the broker is a dual agent and each licensee solely represents his or her client—unless the parties agree in writing that both licensees are dual agents.

Sec. 3. Duties of a Licensee Generally. Prescribes the duties that are owed by all licensees, regardless of who the licensee represents.

Requires disclosure of the licensee's agency relationship in a specific transaction.

Sec. 4. Duties of a Seller's Agent. Prescribes the additional duties of a licensee representing the seller or landlord only.

Sec. 5. Duties of a Buyer's Agent. Prescribes the additional duties of a licensee representing the buyer or tenant only.

Sec. 6. Duties of a Dual Agent. Prescribes the additional duties of a licensee representing both parties in the same transaction, and requires the written consent of both parties to the licensee acting as a dual agent.

Sec. 7. Duration of Agency Relationship. Describes when an agency relationship begins and ends. Provides that the duties of accounting and confidentiality continue after the termination of an agency relationship.

Sec. 8. Compensation. Allows brokers to share compensation with cooperating brokers. States that payment of compensation does not necessarily establish an agency relationship. Allows brokers to receive compensation from more than one party in a transaction with the parties' consent.

Sec. 9. Vicarious Liability. Eliminates the common law liability of a party for the conduct of the party's agent or subagent, unless the agent or subagent is insolvent. Also

limits the liability of a broker for the conduct of a subagent associated with a different broker.

Sec. 10. Imputed Knowledge and Notice. Eliminates the common law rule that notice to or knowledge of an agent constitutes notice to or knowledge of the principal.

Sec. 11. Interpretation. This law replaces the fiduciary duties owed by an agent to a principal under the common law, to the extent that it conflicts with the common law.

(2)(a) The pamphlet required under RCW 18.86.030(1)(f) must also include the following disclosure: When the seller of owner-occupied residential real property enters into a listing agreement with a real estate licensee where the proceeds from the sale may be insufficient to cover the costs at closing, it is the responsibility of the real estate licensee to disclose to the seller in writing that the decision by any beneficiary or mortgagee, or its assignees, to release its interest in the real property, for less than the amount the borrower owes, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including fees such as the real estate licensee's commission.

(b) For the purposes of this subsection, "owner-occupied real property" means real property consisting solely of a single-family residence, a residential condominium unit, or a residential cooperative unit that is the principal residence of the borrower.

Sec. 3. RCW 4.16.040 and 2007 c 124 s 1 are each amended to read as follows:

The following actions shall be commenced within six years:

(1) An action upon a contract in writing, or liability express or implied arising out of a written agreement, except as provided for in section 1(2) of this act.

(2) An action upon an account receivable. For purposes of this section, an account receivable is any obligation for payment incurred in the ordinary course of the claimant's business or profession, whether arising from one or more transactions and whether or not earned by performance.

(3) An action for the rents and profits or for the use and occupation of real estate.

Sec. 4. RCW 61.24.031 and 2011 c 58 s 5 are each amended to read as follows:

(1)(a) A trustee, beneficiary, or authorized agent may not issue a notice of default under RCW 61.24.030(8) until: (i) Thirty days after ((~~initial contact with the borrower was initiated as required under (b) of this subsection or thirty days after~~)) satisfying the due diligence requirements as described in subsection (5) of this section and the borrower has not responded; or (ii) if the borrower responds to the initial contact, ninety days after the initial contact with the borrower was initiated.

(b) A beneficiary or authorized agent shall make initial contact with the borrower by letter to provide the borrower with information required under (c) of this subsection and by telephone as required under subsection (5) of this section. The letter required under this subsection must be mailed in accordance with subsection (5)(a) of this section and must include the information described in (c) of this subsection and subsection (5)(e)(i) through (iv) of this section.

(c) The letter required under this subsection, developed by the department pursuant to RCW 61.24.033, at a minimum shall include:

(i) A paragraph printed in no less than twelve-point font and bolded that reads:

"You must respond within thirty days of the date of this letter. IF YOU DO NOT RESPOND within thirty days, a notice of default may be issued and you may lose your home in foreclosure.

IF YOU DO RESPOND within thirty days of the date of this letter, you will have an additional sixty days to meet with your lender before a notice of default may be issued.

You should contact a housing counselor or attorney as soon as possible. Failure to contact a housing counselor or attorney may result in your losing certain opportunities, such as meeting with your lender or participating in mediation in front of a neutral third party. A housing counselor or attorney can help you work with your lender to avoid foreclosure.

If you filed bankruptcy or have been discharged in bankruptcy, this communication is not intended as an attempt to collect a debt from you personally, but is notice of enforcement of the deed of trust lien against the property. If you wish to avoid foreclosure and keep your property, this notice sets forth your rights and options.";

(ii) The toll-free telephone number from the United States department of housing and urban development to find a department-approved housing counseling agency, the toll-free numbers for the statewide foreclosure hotline

recommended by the housing finance commission, and the statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys;

(iii) A paragraph stating that a housing counselor may be available at little or no cost to the borrower and that whether or not the borrower contacts a housing counselor or attorney, the borrower has the right to request a meeting with the beneficiary; and

(iv) A paragraph explaining how the borrower may respond to the letter and stating that after responding the borrower will have an opportunity to meet with his or her beneficiary in an attempt to resolve and try to work out an alternative to the foreclosure and that, after ninety days from the date of the letter, a notice of default may be issued, which starts the foreclosure process.

(d) If the beneficiary has exercised due diligence as required under subsection (5) of this section and the borrower does not respond by contacting the beneficiary within thirty days of the initial contact, the notice of default may be issued. "Initial contact" with the borrower is considered made three days after the date the letter required in (b) of this subsection is sent.

(e) If a meeting is requested by the borrower or the borrower's housing counselor or attorney, the beneficiary or authorized agent shall schedule the meeting to occur before the notice of default is issued. An assessment of the borrower's financial ability to modify or restructure the loan obligation and a discussion of options must occur during the meeting scheduled for that purpose.

(f) The meeting scheduled to assess the borrower's financial ability to modify or restructure the loan obligation and discuss options to avoid foreclosure ((~~must be in person, unless the requirement to meet in person is waived in writing by the borrower or the borrower's representative. A person who is authorized to modify the loan obligation or reach an alternative resolution to foreclosure on behalf of the beneficiary may participate by telephone or video conference, so long as a representative of the beneficiary is at the meeting in person~~)) may be held telephonically, unless the borrower or borrower's representative requests in writing that a meeting be held in person. The written request for an in-person meeting must be made within thirty days of the initial contact with the borrower. If the meeting is requested to be held in person, the meeting must be held in the county where the borrower resides. A person who is authorized to agree to a resolution, including modifying or restructuring the loan obligation or other alternative resolution to foreclosure on behalf of the beneficiary, must be present either in person or on the telephone or video conference during the meeting.

(2) A notice of default issued under RCW 61.24.030(8) must include a declaration, as provided in subsection (9) of this section, from the beneficiary or authorized agent that it has contacted the borrower as provided in subsection (1) of this section, it has tried with due diligence to contact the borrower under subsection (5) of this section, or the borrower has surrendered the property to the trustee, beneficiary, or authorized agent. Unless the trustee has violated his or her duty under RCW 61.24.010(4), the trustee is entitled to rely on the declaration as evidence that the requirements of this section have been satisfied, and the trustee is not liable for the beneficiary's or its authorized agent's failure to comply with the requirements of this section.

(3) If, after the initial contact under subsection (1) of this section, a borrower has designated a housing counseling agency, housing counselor, or

attorney to discuss with the beneficiary or authorized agent, on the borrower's behalf, options for the borrower to avoid foreclosure, the borrower shall inform the beneficiary or authorized agent and provide the contact information to the beneficiary or authorized agent. The beneficiary or authorized agent shall contact the designated representative for the borrower to meet.

(4) The beneficiary or authorized agent and the borrower or the borrower's representative shall attempt to reach a resolution for the borrower within the ninety days from the time the initial contact is sent and the notice of default is issued. A resolution may include, but is not limited to, a loan modification, an agreement to conduct a short sale, or a deed in lieu of foreclosure transaction, or some other workout plan. Any modification or workout plan offered at the meeting with the borrower's designated representative by the beneficiary or authorized agent is subject to approval by the borrower.

(5) A notice of default may be issued under RCW 61.24.030(8) if a beneficiary or authorized agent has initiated contact with the borrower as required under subsection (1)(b) of this section and the failure to meet with the borrower occurred despite the due diligence of the beneficiary or authorized agent. Due diligence requires the following:

(a) A beneficiary or authorized agent shall first attempt to contact a borrower by sending a first-class letter to the address in the beneficiary's records for sending account statements to the borrower and to the address of the property encumbered by the deed of trust. The letter must be the letter described in subsection (1)(c) of this section.

(b)(i) After the letter has been sent, the beneficiary or authorized agent shall attempt to contact the borrower by telephone at least three times at different hours and on different days. Telephone calls must be made to the primary and secondary telephone numbers on file with the beneficiary or authorized agent.

(ii) A beneficiary or authorized agent may attempt to contact a borrower using an automated system to dial borrowers if the telephone call, when answered, is connected to a live representative of the beneficiary or authorized agent.

(iii) A beneficiary or authorized agent satisfies the telephone contact requirements of this subsection (5)(b) if the beneficiary or authorized agent determines, after attempting contact under this subsection (5)(b), that the borrower's primary telephone number and secondary telephone number or numbers on file, if any, have been disconnected or are not good contact numbers for the borrower.

(iv) The telephonic contact under this subsection (5)(b) does not constitute the meeting under subsection (1)(f) of this section.

(c) If the borrower does not respond within fourteen days after the telephone call requirements of (b) of this subsection have been satisfied, the beneficiary or authorized agent shall send a certified letter, with return receipt requested, to the borrower at the address in the beneficiary's records for sending account statements to the borrower and to the address of the property encumbered by the deed of trust. The letter must include the information described in (e)(i) through (iv) of this subsection. The letter must also include a paragraph stating: "Your failure to contact a housing counselor or attorney may result in your losing certain opportunities, such as meeting with your lender or participating in mediation in front of a neutral third party."

(d) The beneficiary or authorized agent shall provide a means for the borrower to contact the beneficiary or authorized agent in a timely manner, including a toll-free telephone number or charge-free equivalent that will provide access to a live representative during business hours for the purpose of initiating and scheduling the meeting under subsection (1)(f) of this section.

(e) The beneficiary or authorized agent shall post a link on the home page of the beneficiary's or authorized agent's internet web site, if any, to the following information:

(i) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid foreclosure, and instructions to borrowers advising them on steps to take to explore those options;

(ii) A list of financial documents borrowers should collect and be prepared to present to the beneficiary or authorized agent when discussing options for avoiding foreclosure;

(iii) A toll-free telephone number or charge-free equivalent for borrowers who wish to discuss options for avoiding foreclosure with their beneficiary or authorized agent; and

(iv) The toll-free telephone number or charge-free equivalent made available by the department to find a department-approved housing counseling agency.

(6) Subsections (1) and (5) of this section do not apply if ((~~any of the following occurs:~~

~~(a)~~)) the borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the trustee, beneficiary, or authorized agent((~~; or~~

~~(b) The borrower has filed for bankruptcy, and the bankruptcy stay remains in place, or the borrower has filed for bankruptcy and the bankruptcy court has granted relief from the bankruptcy stay allowing enforcement of the deed of trust~~)).

(7)(a) This section applies only to deeds of trust that are recorded against owner-occupied residential real property. This section does not apply to deeds of trust: (i) Securing a commercial loan; (ii) securing obligations of a grantor who is not the borrower or a guarantor; or (iii) securing a purchaser's obligations under a seller-financed sale.

(b) This section does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

(8) As used in this section:

(a) "Department" means the United States department of housing and urban development.

(b) "Seller-financed sale" means a residential real property transaction where the seller finances all or part of the purchase price, and that financed amount is secured by a deed of trust against the subject residential real property.

(9) The form of declaration to be provided by the beneficiary or authorized agent as required under subsection (2) of this section must be in substantially the following form:

"FORECLOSURE LOSS MITIGATION FORM

Please select applicable option(s) below.

The undersigned beneficiary or authorized agent for the beneficiary hereby represents and declares under the penalty of perjury that [check the applicable box and fill in any blanks so that the trustee can insert, on the beneficiary's behalf, the applicable declaration in the notice of default required under chapter 61.24 RCW]:

(1) [ ] The beneficiary or beneficiary's authorized agent has contacted the borrower under, and has complied with, RCW 61.24.031 (contact provision to "assess the borrower's financial ability to pay the debt secured by the deed of trust and explore options for the borrower to avoid foreclosure") and the borrower did not request a meeting.

(2) [ ] The beneficiary or beneficiary's authorized agent has contacted the borrower as required under RCW 61.24.031 and the borrower or the borrower's designated representative requested a meeting. A meeting was held in compliance with RCW 61.24.031.

(3) [ ] The beneficiary or beneficiary's authorized agent has exercised due diligence to contact the borrower as required in RCW 61.24.031(5).

(4) [ ] The borrower has surrendered the secured property as evidenced by either a letter confirming the surrender or by delivery of the keys to the secured property to the beneficiary, the beneficiary's authorized agent or to the trustee.

((~~(5) [ ] Under RCW 61.24.031, the beneficiary or the beneficiary's authorized agent has verified information that, on or before the date of this declaration, the borrower(s) has filed for bankruptcy, and the bankruptcy stay remains in place, or the borrower has filed for bankruptcy and the bankruptcy court has granted relief from the bankruptcy stay allowing the enforcement of the deed of trust.~~))"

Sec. 5. RCW 61.24.160 and 2011 c 58 s 6 are each amended to read as follows:

(1)(a) A housing counselor who is contacted by a borrower under RCW 61.24.031 has a duty to act in good faith to attempt to reach a resolution with the beneficiary on behalf of the borrower within the ninety days provided from the date the beneficiary initiates contact with the borrower and the date the notice of default is issued. A resolution may include, but is not limited to, modification of the loan, an agreement to conduct a short sale, a deed in lieu of foreclosure transaction, or some other workout plan.

(b) Nothing in RCW 61.24.031 or this section precludes a meeting or negotiations between the housing counselor, borrower, and beneficiary at any time, including after the issuance of the notice of default.

(c) A borrower who is contacted under RCW 61.24.031 may seek the assistance of a housing counselor or attorney at any time.

(2) Housing counselors have a duty to act in good faith to assist borrowers by:

(a) Preparing the borrower for meetings with the beneficiary;

(b) Advising the borrower about what documents the borrower must have to seek a loan modification or other resolution;

(c) Informing the borrower about the alternatives to foreclosure, including loan modifications or other possible resolutions; and

(d) Providing other guidance, advice, and education as the housing counselor considers necessary.

(3) A housing counselor or attorney assisting a borrower may refer the borrower to ((~~a~~)) mediation ((~~program~~)), pursuant to RCW 61.24.163, if((~~:~~

(~~a~~))) the housing counselor or attorney determines that mediation is appropriate based on the individual circumstances((~~; and~~

~~(b) A notice of sale on the deed of trust has not been recorded.~~

(~~4~~))) and the borrower has received a notice of default. The referral to mediation may be made any time after a notice of default has been issued but no later than twenty days after the date a notice of sale has been recorded.

(4) For borrowers who have received a letter under RCW 61.24.031 before the effective date of this section, a referral to mediation by a housing counselor or attorney does not preclude a trustee issuing a notice of default if the requirements of RCW 61.24.031 have been met.

(5) Housing counselors providing assistance to borrowers under RCW 61.24.031 are not liable for civil damages resulting from any acts or omissions in providing assistance, unless the acts or omissions constitute gross negligence or willful or wanton misconduct.

(6) Housing counselors shall provide information to the department to assist the department in its annual report to the legislature as required under RCW 61.24.163((~~(15)~~)) (18). The information provided to the department by the housing counselors should include outcomes of foreclosures and be similar to the information requested in the national foreclosure mortgage counseling client level foreclosure outcomes report form.

Sec. 6. RCW 61.24.163 and 2011 2nd sp.s. c 4 s 1 are each amended to read as follows:

(1) The foreclosure mediation program established in this section applies only to borrowers who have been referred to mediation by a housing counselor or attorney. The referral to mediation may be made any time after a notice of default has been issued but no later than twenty days after the date a notice of sale has been recorded. The mediation program under this section is not governed by chapter 7.07 RCW and does not preclude mediation required by a court or other provision of law.

(2) A housing counselor or attorney referring a borrower to mediation shall send a notice to the borrower and the department, stating that mediation is appropriate.

(3) Within ten days of receiving the notice, the department shall:

(a) Send a notice to the beneficiary, the borrower, the housing counselor or attorney who referred the borrower, and the trustee stating that the parties have been referred to mediation. The notice must include the statements and list of documents and information described in subsections (4) and (5)(((~~(b)(i) through (iv)~~))) of this section and a statement explaining each party's responsibility to pay the mediator's fee; and

(b) Select a mediator and notify the parties of the selection.

(4) Within ((~~forty-five~~)) twenty-three days of the department's notice that the parties have been referred to mediation, the borrower shall transmit the documents required for mediation to the mediator and the beneficiary. The required documents include an initial Making Home Affordable Application (HAMP) package or such other equivalent homeowner financial information worksheet as required by the department. In the event the department is required

to create a worksheet, the worksheet must include, at a minimum, the following information:

(a) The borrower's current and future income;

(b) Debts and obligations;

(c) Assets;

(d) Expenses;

(e) Tax returns for the previous two years;

(f) Hardship information;

(g) Other applicable information commonly required by any applicable federal mortgage relief program.

(5) Within twenty days of the beneficiary's receipt of the borrower's documents, the beneficiary shall transmit the documents required for mediation to the mediator and the borrower. The required documents include:

(a) An accurate statement containing the balance of the loan within thirty days of the date on which the beneficiary's documents are due to the parties;

(b) Copies of the note and deed of trust;

(c) Proof that the entity claiming to be the beneficiary is the owner of any promissory note or obligation secured by the deed of trust. Sufficient proof may be a copy of the declaration described in RCW 61.24.030(7)(a);

(d) The best estimate of any arrearage and an itemized statement of the arrearages;

(e) An itemized list of the best estimate of fees and charges outstanding;

(f) The payment history and schedule for the preceding twelve months, or since default, whichever is longer, including a breakdown of all fees and charges claimed;

(g) All borrower-related and mortgage-related input data used in any net present values analysis. If no net present values analysis is required by the applicable federal mortgage relief program, then the input data required under the federal deposit insurance corporation and published in the federal deposit insurance corporation loan modification program guide, or if that calculation becomes unavailable, substantially similar input data as determined by the department;

(h) An explanation regarding any denial for a loan modification, forbearance, or other alternative to foreclosure in sufficient detail for a reasonable person to understand why the decision was made;

(i) Appraisal or other broker price opinion most recently relied upon by the beneficiary not more than ninety days old at the time of the scheduled mediation; and

(j) The portion or excerpt of the pooling and servicing agreement that prohibits the beneficiary from implementing a modification, if the beneficiary claims it cannot implement a modification due solely to limitations in a pooling and servicing agreement, and documentation or a statement detailing the efforts of the beneficiary to obtain a waiver of the pooling and servicing agreement provisions.

(6) Within seventy days of receiving the referral from the department, the mediator shall convene a mediation session in the county where the borrower resides, unless the parties agree on another location. The parties may agree ((~~in writing~~)) to extend the time in which to schedule the mediation session. If the parties agree to extend the time, the beneficiary shall notify the trustee of the

extension and the date the mediator is expected to issue the mediator's certification.

((~~(5)~~)) (7)(a) The mediator may schedule phone conferences, consultations with the parties individually, and other communications to ensure that the parties have all the necessary information and documents to engage in a productive mediation.

(b) The mediator must send written notice of the time, date, and location of the mediation session to the borrower, the beneficiary, and the department at least ((~~fifteen~~)) thirty days prior to the mediation session. At a minimum, the notice must contain:

(i) A statement that the borrower may be represented in the mediation session by an attorney or other advocate;

(ii) A statement that a person with authority to agree to a resolution, including a proposed settlement, loan modification, or dismissal or continuation of the foreclosure proceeding, must be present either in person or on the telephone or video conference during the mediation session; and

(iii) ((~~A complete list of documents and information required by this section that the parties must provide to the mediator and the deadlines for providing the documents and information; and~~

~~(iv)~~)) A statement that the parties have a duty to mediate in good faith and that failure to mediate in good faith may impair the beneficiary's ability to foreclose on the property or the borrower's ability to modify the loan or take advantage of other alternatives to foreclosure.

((~~(6)~~)) (8)(a) The borrower, the beneficiary or authorized agent, and the mediator must meet in person for the mediation session. However, a person with authority to agree to a resolution on behalf of the beneficiary may be present over the telephone or video conference during the mediation session.

((~~(7)~~)) (b) After the mediation session commences, the mediator may continue the mediation session once, and any further continuances must be with the consent of the parties.

(9) The participants in mediation must address the issues of foreclosure that may enable the borrower and the beneficiary to reach a resolution, including but not limited to reinstatement, modification of the loan, restructuring of the debt, or some other workout plan. To assist the parties in addressing issues of foreclosure, the mediator ((~~must~~)) may require the participants to consider the following:

(a) The borrower's current and future economic circumstances, including the borrower's current and future income, debts, and obligations for the previous sixty days or greater time period as determined by the mediator;

(b) The net present value of receiving payments pursuant to a modified mortgage loan as compared to the anticipated net recovery following foreclosure;

(c) Any affordable loan modification calculation and net present value calculation when required under any federal mortgage relief program, including the home affordable modification program (HAMP) as applicable to government-sponsored enterprise and nongovernment-sponsored enterprise loans and any HAMP-related modification program applicable to loans insured by the federal housing administration, the veterans administration, and the rural housing service. If such a calculation is not provided or required, then the

beneficiary must ((~~use the current calculations, assumptions, and forms that are~~)) provide the net present value data inputs established by the federal deposit insurance corporation and published in the federal deposit insurance corporation loan modification program guide or other net present value data inputs as designated by the department. The mediator may run the calculation in order for a productive mediation to occur and to comply with the mediator certification requirement; and

(d) Any other loss mitigation guidelines to loans insured by the federal housing administration, the veterans administration, and the rural housing service, if applicable.

(((~~(8)~~))) (10) A violation of the duty to mediate in good faith as required under this section may include:

(a) Failure to timely participate in mediation without good cause;

(b) Failure of the borrower or the beneficiary to provide the ((~~following documentation to the borrower and mediator at least ten days before the mediation or pursuant to the mediator's instructions:~~

~~(i) An accurate statement containing the balance of the loan as of the first day of the month in which the mediation occurs;~~

~~(ii) Copies of the note and deed of trust;~~

~~(iii) Proof that the entity claiming to be the beneficiary is the owner of any promissory note or obligation secured by the deed of trust. Sufficient proof may be a copy of the declaration described in RCW 61.24.030(7)(a);~~

~~(iv) The best estimate of any arrearage and an itemized statement of the arrearages;~~

~~(v) An itemized list of the best estimate of fees and charges outstanding;~~

~~(vi) The payment history and schedule for the preceding twelve months, or since default, whichever is longer, including a breakdown of all fees and charges claimed;~~

~~(vii) All borrower-related and mortgage-related input data used in any net present value analysis;~~

~~(viii) An explanation regarding any denial for a loan modification, forbearance, or other alternative to foreclosure in sufficient detail for a reasonable person to understand why the decision was made;~~

~~(ix) The most recently available appraisal or other broker price opinion most recently relied upon by the beneficiary; and~~

~~(x) The portion or excerpt of the pooling and servicing agreement that prohibits the beneficiary from implementing a modification, if the beneficiary claims it cannot implement a modification due solely to limitations in a pooling and servicing agreement, and documentation or a statement detailing the efforts of the beneficiary to obtain a waiver of the pooling and servicing agreement provisions;~~

~~(c) Failure of the borrower to provide documentation to the beneficiary and mediator, at least ten days before the mediation or pursuant to the mediator's instruction, showing the borrower's current and future income, debts and obligations, and tax returns for the past two years;~~

~~(d) Failure of either party to pay the respective portion of the mediation fee in advance of the mediation as required under this section;~~

~~(e)~~)) documentation required before mediation or pursuant to the mediator's instructions;

(c) Failure of a party to designate representatives with adequate authority to fully settle, compromise, or otherwise reach resolution with the borrower in mediation; and

((~~(f)~~)) (d) A request by a beneficiary that the borrower waive future claims he or she may have in connection with the deed of trust, as a condition of agreeing to a modification, except for rescission claims under the federal truth in lending act. Nothing in this section precludes a beneficiary from requesting that a borrower dismiss with prejudice any pending claims against the beneficiary, its agents, loan servicer, or trustee, arising from the underlying deed of trust, as a condition of modification.

((~~(9)~~)) (11) If the mediator reasonably believes a borrower will not attend a mediation session based on the borrower's conduct, such as the lack of response to the mediator's communications, the mediator may cancel a scheduled mediation session and send a written cancellation to the department and the trustee and send copies to the parties. The beneficiary may proceed with the foreclosure after receipt of the mediator's written confirmation of cancellation.

(12) Within seven business days after the conclusion of the mediation session, the mediator must send a written certification to the department and the trustee and send copies to the parties of:

(a) The date, time, and location of the mediation session;

(b) The names of all persons attending in person and by telephone or video conference, at the mediation session;

(c) Whether a resolution was reached by the parties, including whether the default was cured by reinstatement, modification, or restructuring of the debt, or some other alternative to foreclosure was agreed upon by the parties;

(d) Whether the parties participated in the mediation in good faith; and

(e) If a written agreement was not reached, a description of ((~~the~~)) any net present value test used, along with a copy of the inputs, including the result of ((~~the~~)) any net present value test expressed in a dollar amount.

((~~(10)~~)) (13) If the parties are unable to reach ((~~any agreement and the mediator certifies that the parties acted in good faith, the beneficiary may proceed with the foreclosure.~~

~~(11)~~)) an agreement, the beneficiary may proceed with the foreclosure after receipt of the mediator's written certification.

(14)(a) The mediator's certification that the beneficiary failed to act in good faith in mediation constitutes a defense to the nonjudicial foreclosure action that was the basis for initiating the mediation. In any action to enjoin the foreclosure, the beneficiary ((~~shall be~~)) is entitled to rebut the allegation that it failed to act in good faith.

(b) The mediator's certification that the beneficiary failed to act in good faith during mediation does not constitute a defense to a judicial foreclosure or a future nonjudicial foreclosure action if a modification of the loan is agreed upon and the borrower subsequently defaults.

(c) If an affordable loan modification is not offered in the mediation or a written agreement was not reached and the mediator's certification shows that the net present value of the modified loan exceeds the anticipated net recovery at foreclosure, that showing in the certification ((~~shall~~)) constitutes a basis for the borrower to enjoin the foreclosure.

((~~(12)~~)) (15) The mediator's certification that the borrower failed to act in good faith in mediation authorizes the beneficiary to proceed with the foreclosure.

((~~(13)~~)) (16)(a) If a borrower has been referred to mediation before a notice of trustee sale has been recorded, a trustee may not record the notice of sale until the trustee receives the mediator's certification stating that the mediation has been completed. ((~~(b)~~)) If the trustee does not receive the mediator's certification, the trustee may record the notice of sale after ten days from the date the certification to the trustee was due. If ((~~the~~)), after a notice of sale is recorded under this subsection ((~~(13)(b) and~~)) (16)(a), the mediator subsequently issues a certification ((~~alleging~~)) finding that the beneficiary violated the duty of good faith, ((~~the trustee may not proceed with the sale.~~

~~(14)~~)) the certification constitutes a basis for the borrower to enjoin the foreclosure.

(b) If a borrower has been referred to mediation after the notice of sale was recorded, the sale may not occur until the trustee receives the mediator's certification stating that the mediation has been completed.

(17) A mediator may charge reasonable fees as authorized by this subsection and by the department. Unless the fee is waived or the parties agree otherwise, a foreclosure mediator's fee may not exceed four hundred dollars for preparing, scheduling, and conducting a mediation session lasting between one hour and three hours. For a mediation session exceeding three hours, the foreclosure mediator may charge a reasonable fee, as authorized by the department. The mediator must provide an estimated fee before the mediation, and payment of the mediator's fee must be divided equally between the beneficiary and the borrower. The beneficiary and the borrower must tender the loan mediator's fee ((~~seven~~)) within thirty calendar days ((~~before the commencement of the~~)) from receipt of the department's letter referring the parties to mediation or pursuant to the mediator's instructions.

((~~(15)~~)) (18) Beginning December 1, 2012, and every year thereafter, the department shall report annually to the legislature on:

(a) The performance of the program, including the numbers of borrowers who are referred to mediation by a housing counselor or attorney;

(b) The results of the mediation program, including the number of mediations requested by housing counselors and attorneys, the number of certifications of good faith issued, the number of borrowers and beneficiaries who failed to mediate in good faith, and the reasons for the failure to mediate in good faith, if known, the numbers of loans restructured or modified, the change in the borrower's monthly payment for principal and interest and the number of principal write-downs and interest rate reductions, and, to the extent practical, the number of borrowers who report a default within a year of restructuring or modification;

(c) The information received by housing counselors regarding outcomes of foreclosures; and

(d) Any recommendations for changes to the statutes regarding the mediation program.

Sec. 7. RCW 61.24.169 and 2011 2nd sp.s. c 4 s 2 are each amended to read as follows:

(1) For the purposes of RCW 61.24.163, the department must maintain a list of approved foreclosure mediators. The department may approve the following persons to serve as foreclosure mediators under this section if the person has completed ten mediations and either a forty-hour mediation course and sixty hours of mediating or has two hundred hours experience mediating:

(a) Attorneys who are active members of the Washington state bar association;

(b) Employees of United States department of housing and urban development-approved housing counseling agencies or approved by the Washington state housing finance commission;

(c) Employees or volunteers of dispute resolution centers under chapter 7.75 RCW; ((~~and~~))

(d) Retired judges of Washington courts; and

(e) Other experienced mediators.

(2) The department may establish a required training program for foreclosure mediators and may require mediators to acquire training before being approved. The mediators must be familiar with relevant aspects of the law, have knowledge of community-based resources and mortgage assistance programs, and refer borrowers to these programs where appropriate.

(3) The department may remove any mediator from the approved list of mediators.

(4)(a) A mediator under this section ((~~who is an employee or volunteer of a dispute resolution center under chapter 7.75 RCW~~)) is immune from suit in any civil action based on any proceedings or other official acts performed in his or her capacity as a foreclosure mediator, except in cases of willful or wanton misconduct.

(b) A mediator is not subject to discovery or compulsory process to testify in any litigation pertaining to a foreclosure action between the parties. However, the mediator's certification and all information and material presented as part of the mediation process may be deemed admissible evidence, subject to court rules, in any litigation pertaining to a foreclosure action between the parties.

Sec. 8. RCW 61.24.174 and 2011 1st sp.s. c 24 s 1 are each amended to read as follows:

(1) Except as provided in subsection ((~~(4)~~)) (5) of this section, beginning October 1, 2011, and every quarter thereafter, every beneficiary issuing notices of default, or directing that a trustee or authorized agent issue the notice of default, on owner-occupied residential real property under this chapter must:

(a) Report to the department the number of owner-occupied residential real properties for which the beneficiary has issued a notice of default during the previous quarter; ((~~and~~))

(b) Remit the amount required under subsection (2) of this section; and

(c) Report and update beneficiary contact information for the person and work group responsible for the beneficiary's compliance with the requirements of the foreclosure fairness act created in this chapter.

(2) For each owner-occupied residential real property for which a notice of default has been issued, the beneficiary issuing the notice of default, or directing that a trustee or authorized agent issue the notice of default, shall remit two hundred fifty dollars to the department to be deposited, as provided under RCW 61.24.172, into the foreclosure fairness account. The two hundred fifty dollar

payment is required per property and not per notice of default. The beneficiary shall remit the total amount required in a lump sum each quarter.

(3) Reporting and payments under subsections (1) and (2) of this section are due within forty-five days of the end of each quarter.

(4) No later than thirty days after April 14, 2011, the beneficiaries required to report and remit to the department under this section shall determine the number of owner-occupied residential real properties for which notices of default were issued during the three months prior to April 14, 2011. The beneficiary shall remit to the department a one-time sum of two hundred fifty dollars multiplied by the number of properties. In addition, by July 31, 2011, the beneficiaries required to report and remit to the department under this section shall remit to the department another one-time sum of two hundred fifty dollars multiplied by the number of owner-occupied residential real properties for which notices of default were issued from April 14, 2011, through June 30, 2011. The department shall deposit the funds into the foreclosure fairness account as provided under RCW 61.24.172.

((~~(4)~~)) (5) This section does not apply to any beneficiary or loan servicer that is a federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), and that certifies under penalty of perjury that it has issued, or has directed a trustee or authorized agent to issue, fewer than two hundred fifty notices of default in the preceding year.

((~~(5)~~)) (6) This section does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

Sec. 9. RCW 61.24.030 and 2011 c 58 s 4 are each amended to read as follows:

It shall be requisite to a trustee's sale:

(1) That the deed of trust contains a power of sale;

(2) That the deed of trust contains a statement that the real property conveyed is not used principally for agricultural purposes; provided, if the statement is false on the date the deed of trust was granted or amended to include that statement, and false on the date of the trustee's sale, then the deed of trust must be foreclosed judicially. Real property is used for agricultural purposes if it is used in an operation that produces crops, livestock, or aquatic goods;

(3) That a default has occurred in the obligation secured or a covenant of the grantor, which by the terms of the deed of trust makes operative the power to sell;

(4) That no action commenced by the beneficiary of the deed of trust is now pending to seek satisfaction of an obligation secured by the deed of trust in any court by reason of the grantor's default on the obligation secured: PROVIDED, That (a) the seeking of the appointment of a receiver shall not constitute an action for purposes of this chapter; and (b) if a receiver is appointed, the grantor shall be entitled to any rents or profits derived from property subject to a homestead as defined in RCW 6.13.010. If the deed of trust was granted to secure a commercial loan, this subsection shall not apply to actions brought to enforce any other lien or security interest granted to secure the obligation secured by the deed of trust being foreclosed;

(5) That the deed of trust has been recorded in each county in which the land or some part thereof is situated;

(6) That prior to the date of the notice of trustee's sale and continuing thereafter through the date of the trustee's sale, the trustee must maintain a street address in this state where personal service of process may be made, and the trustee must maintain a physical presence and have telephone service at such address;

(7)(a) That, for residential real property, before the notice of trustee's sale is recorded, transmitted, or served, the trustee shall have proof that the beneficiary is the owner of any promissory note or other obligation secured by the deed of trust. A declaration by the beneficiary made under the penalty of perjury stating that the beneficiary is the actual holder of the promissory note or other obligation secured by the deed of trust shall be sufficient proof as required under this subsection.

(b) Unless the trustee has violated his or her duty under RCW 61.24.010(4), the trustee is entitled to rely on the beneficiary's declaration as evidence of proof required under this subsection.

(c) This subsection (7) does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW;

(8) That at least thirty days before notice of sale shall be recorded, transmitted or served, written notice of default shall be transmitted by the beneficiary or trustee to the borrower and grantor at their last known addresses by both first-class and either registered or certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on the premises, a copy of the notice, or personally served on the borrower and grantor. This notice shall contain the following information:

(a) A description of the property which is then subject to the deed of trust;

(b) A statement identifying each county in which the deed of trust is recorded and the document number given to the deed of trust upon recording by each county auditor or recording officer;

(c) A statement that the beneficiary has declared the borrower or grantor to be in default, and a concise statement of the default alleged;

(d) An itemized account of the amount or amounts in arrears if the default alleged is failure to make payments;

(e) An itemized account of all other specific charges, costs, or fees that the borrower, grantor, or any guarantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;

(f) A statement showing the total of (d) and (e) of this subsection, designated clearly and conspicuously as the amount necessary to reinstate the note and deed of trust before the recording of the notice of sale;

(g) A statement that failure to cure the alleged default within thirty days of the date of mailing of the notice, or if personally served, within thirty days of the date of personal service thereof, may lead to recordation, transmittal, and publication of a notice of sale, and that the property described in (a) of this subsection may be sold at public auction at a date no less than one hundred twenty days in the future, or no less than one hundred fifty days in the future if the borrower received a letter under RCW 61.24.031;

(h) A statement that the effect of the recordation, transmittal, and publication of a notice of sale will be to (i) increase the costs and fees and (ii) publicize the default and advertise the grantor's property for sale;

(i) A statement that the effect of the sale of the grantor's property by the trustee will be to deprive the grantor of all their interest in the property described in (a) of this subsection;

(j) A statement that the borrower, grantor, and any guarantor has recourse to the courts pursuant to RCW 61.24.130 to contest the alleged default on any proper ground;

(k) In the event the property secured by the deed of trust is owner-occupied residential real property, a statement, prominently set out at the beginning of the notice, which shall state as follows:

((~~"You should take care to protect your interest in your home. This notice of default (your failure to pay) is the first step in a process that could result in you losing your home. You should carefully review your options. For example:~~

~~Can you pay and stop the foreclosure process?~~

~~Do you dispute the failure to pay?~~

~~Can you sell your property to preserve your equity?~~

~~Are you able to refinance this loan or obligation with a new loan or obligation from another lender with payments, terms, and fees that are more affordable?~~

~~Do you qualify for any government or private homeowner assistance programs?~~

~~Do you know if filing for bankruptcy is an option? What are the pros and cons of doing so?~~

~~Do not ignore this notice; because if you do nothing, you could lose your home at a foreclosure sale. (No foreclosure sale can be held any sooner than ninety days after a notice of sale is issued and a notice of sale cannot be issued until thirty days after this notice.) Also, if you do nothing to pay what you owe, be careful of people who claim they can help you. There are many individuals and businesses that watch for the notices of sale in order to unfairly profit as a result of borrowers' distress.~~

~~You may feel you need help understanding what to do. There are a number of professional resources available, including home loan counselors and attorneys, who may assist you. Many legal services are lower cost or even free, depending on your ability to pay. If you desire legal help in understanding your options or handling this default, you may obtain a referral (at no charge) by contacting the county bar association in the county where your home is located. These legal referral services also provide information about lower cost or free legal services for those who qualify. You may contact the Department of Financial Institutions or the statewide civil legal aid hotline for possible assistance or referrals"~~))

"THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.

You may be eligible for mediation in front of a neutral third party to help save your home.

CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. Mediation **MUST** be requested between the time you receive

the Notice of Default and no later than twenty days after the Notice of Trustee Sale is recorded.

DO NOT DELAY. If you do nothing, a notice of sale may be issued as soon as 30 days from the date of this notice of default. The notice of sale will provide a minimum of 120 days' notice of the date of the actual foreclosure sale.

BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.

REFER TO THE CONTACTS BELOW for sources of assistance.

SEEKING ASSISTANCE

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:
The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission
Telephone: . . . . . Web site: . . . . . .
The United States Department of Housing and Urban Development
Telephone: . . . . . Web site: . . . . . .
The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys
Telephone: . . . . . Web site: . . . . . ."

The beneficiary or trustee shall obtain the toll-free numbers and web site information from the department for inclusion in the notice; and

(l) In the event the property secured by the deed of trust is residential real property, the name and address of the owner of any promissory notes or other obligations secured by the deed of trust and the name, address, and telephone number of a party acting as a servicer of the obligations secured by the deed of trust; and

(9) That, for owner-occupied residential real property, before the notice of the trustee's sale is recorded, transmitted, or served, the beneficiary has complied with RCW 61.24.031 and, if applicable, RCW 61.24.163.

Sec. 10. RCW 61.24.040 and 2009 c 292 s 9 are each amended to read as follows:

A deed of trust foreclosed under this chapter shall be foreclosed as follows:

(1) At least ninety days before the sale, or if a letter under RCW 61.24.031 is required, at least one hundred twenty days before the sale, the trustee shall:

(a) Record a notice in the form described in (f) of this subsection in the office of the auditor in each county in which the deed of trust is recorded;

(b) To the extent the trustee elects to foreclose its lien or interest, or the beneficiary elects to preserve its right to seek a deficiency judgment against a borrower or grantor under RCW 61.24.100(3)(a), and if their addresses are stated in a recorded instrument evidencing their interest, lien, or claim of lien, or an amendment thereto, or are otherwise known to the trustee, cause a copy of the notice of sale described in (f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to the following persons or their legal representatives, if any, at such address:

(i) The borrower and grantor;

(ii) The beneficiary of any deed of trust or mortgagee of any mortgage, or any person who has a lien or claim of lien against the property, that was recorded subsequent to the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iii) The vendee in any real estate contract, the lessee in any lease, or the holder of any conveyances of any interest or estate in any portion or all of the property described in such notice, if that contract, lease, or conveyance of such interest or estate, or a memorandum or other notice thereof, was recorded after the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iv) The last holder of record of any other lien against or interest in the property that is subject to a subordination to the deed of trust being foreclosed that was recorded before the recordation of the notice of sale;

(v) The last holder of record of the lien of any judgment subordinate to the deed of trust being foreclosed; and

(vi) The occupants of property consisting solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, whether or not the occupant's rental agreement is recorded, which notice may be a single notice addressed to "occupants" for each unit known to the trustee or beneficiary;

(c) Cause a copy of the notice of sale described in (f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to the plaintiff or the plaintiff's attorney of record, in any court action to foreclose a lien or other encumbrance on all or any part of the property, provided a court action is pending and a lis pendens in connection therewith is recorded in the office of the auditor of any county in which all or part of the property is located on the date the notice is recorded;

(d) Cause a copy of the notice of sale described in (f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to any person who has recorded a request for notice in accordance with RCW 61.24.045, at the address specified in such person's most recently recorded request for notice;

(e) Cause a copy of the notice of sale described in (f) of this subsection to be posted in a conspicuous place on the property, or in lieu of posting, cause a copy of said notice to be served upon any occupant of the property;

(f) The notice shall be in substantially the following form:

NOTICE OF TRUSTEE'S SALE

I.

NOTICE IS HEREBY GIVEN that the undersigned Trustee will on the . . . . day of . . . . . ., . . ., at the hour of . . . . o'clock . . . . M. at . . . . . [street address and location if inside a building] in the City of . . . . . ., State of Washington, sell at public auction to the highest and best bidder, payable at the time of sale, the following described real property, situated in the County(ies) of . . . . . ., State of Washington, to-wit:

[If any personal property is to be included in the trustee's sale, include a description that reasonably identifies such personal property]

which is subject to that certain Deed of Trust dated . . . . . ., . . ., recorded . . . . . ., . . ., under Auditor's File No. . . . ., records of . . . . . County, Washington, from . . . . . ., as Grantor, to . . . . . ., as Trustee, to secure an obligation in favor of . . . . . ., as Beneficiary, the beneficial interest in which was assigned by . . . . . ., under an Assignment recorded under Auditor's File No. . . . . [Include recording information for all counties if the Deed of Trust is recorded in more than one county.]

II.

No action commenced by the Beneficiary of the Deed of Trust is now pending to seek satisfaction of the obligation in any Court by reason of the Borrower's or Grantor's default on the obligation secured by the Deed of Trust.

[If there is another action pending to foreclose other security for all or part of the same debt, qualify the statement and identify the action.]

III.

The default(s) for which this foreclosure is made is/are as follows:

[If default is for other than payment of money, set forth the particulars]

Failure to pay when due the following amounts which are now in arrears:

IV.

The sum owing on the obligation secured by the Deed of Trust is: Principal $ . . . . . ., together with interest as provided in the note or other instrument secured from the . . . . day of . . . . . ., . . ., and such other costs and fees as are due under the note or other instrument secured, and as are provided by statute.

V.

The above-described real property will be sold to satisfy the expense of sale and the obligation secured by the Deed of Trust as provided by statute. The sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the . . . . day of . . . . . ., . . . The default(s) referred to in paragraph III must be cured by the . . . . day of . . . . . ., . . . (11 days before the sale date), to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time on or before the . . . . day of . . . . . ., . . ., (11 days before the sale date), the default(s) as set forth in paragraph III is/are cured and the Trustee's fees and costs are paid. The sale may be terminated any time after the . . . . day of . . . . . ., . . . (11 days before the sale date), and before the sale by the Borrower, Grantor, any Guarantor, or the holder of any recorded junior lien or encumbrance paying the entire principal and interest secured by the Deed of Trust, plus costs, fees, and advances, if any, made pursuant to the terms of the obligation and/or Deed of Trust, and curing all other defaults.

VI.

A written notice of default was transmitted by the Beneficiary or Trustee to the Borrower and Grantor at the following addresses:

. . . . . .
. . . . . .
. . . . . .

by both first-class and certified mail on the . . . . day of . . . . . ., . . ., proof of which is in the possession of the Trustee; and the Borrower and Grantor were personally served on the . . . . day of . . . . . ., . . ., with said written notice of default or the written notice of default was posted in a conspicuous place on the real property described in paragraph I above, and the Trustee has possession of proof of such service or posting.

VII.

The Trustee whose name and address are set forth below will provide in writing to anyone requesting it, a statement of all costs and fees due at any time prior to the sale.

VIII.

The effect of the sale will be to deprive the Grantor and all those who hold by, through or under the Grantor of all their interest in the above-described property.

IX.

Anyone having any objection to the sale on any grounds whatsoever will be afforded an opportunity to be heard as to those objections if they bring a lawsuit to restrain the sale pursuant to RCW 61.24.130. Failure to bring such a lawsuit may result in a waiver of any proper grounds for invalidating the Trustee's sale.

[Add Part X to this notice if applicable under RCW 61.24.040(9)]

. . . . . .
. . . . . , Trustee

. . . . . }
. . . . . } Address
. . . . . }

. . . . . } Phone

[Acknowledgment]

(g) If the borrower received a letter under RCW 61.24.031, the notice specified in subsection (1)(f) of this section shall also include the following additional language:

"THIS NOTICE IS THE FINAL STEP BEFORE THE FORECLOSURE SALE OF YOUR HOME.

You have only 20 DAYS from the recording date on this notice to pursue mediation.

DO NOT DELAY. CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you are eligible and it may help you save your home. See below for safe sources of help.

SEEKING ASSISTANCE

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:
The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission
Telephone: . . . . . Web site: . . . . . .
The United States Department of Housing and Urban Development
Telephone: . . . . . Web site: . . . . . .
The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys
Telephone: . . . . . Web site: . . . . . ."

The beneficiary or trustee shall obtain the toll-free numbers and web site information from the department for inclusion in the notice.

(2) In addition to providing the borrower and grantor the notice of sale described in subsection (1)(f) of this section, the trustee shall include with the copy of the notice which is mailed to the grantor, a statement to the grantor in substantially the following form:

NOTICE OF FORECLOSURE
Pursuant to the Revised Code of Washington,
Chapter 61.24 RCW

The attached Notice of Trustee's Sale is a consequence of default(s) in the obligation to . . . . . ., the Beneficiary of your Deed of Trust and owner of the obligation secured thereby. Unless the default(s) is/are cured, your property will be sold at auction on the . . . . day of . . . . . ., . . .

To cure the default(s), you must bring the payments current, cure any other defaults, and pay accrued late charges and other costs, advances, and attorneys' fees as set forth below by the . . . . day of . . . . . ., . . . [11 days before the sale date]. To date, these arrears and costs are as follows:

	Currently due to reinstate on	Estimated amount that will be due to reinstate on . . . . . (11 days before the date set for sale)
Delinquent payments from . . . . . ., ..., in the		

amount of $ . . . . . ./mo.:	$	$ . . . . .
Late charges in the total amount of:	$	$ . . . . .
		Estimated Amounts
Attorneys' fees:	$	$ . . . . .
Trustee's fee:	$	$ . . . . .
Trustee's expenses: (Itemization)		
Title report	$	$ . . . . .
Recording fees	$	$ . . . . .
Service/Posting of Notices	$	$ . . . . .
Postage/Copying expense	$	$ . . . . .
Publication	$	$ . . . . .
Telephone charges	$	$ . . . . .
Inspection fees	$	$ . . . . .
. . . . .	$	$ . . . . .
. . . . .	$	$ . . . . .
TOTALS	$	$ . . . . .

To pay off the entire obligation secured by your Deed of Trust as of the . . . . day of . . . . . you must pay a total of $. . . . . in principal, $. . . . . in interest, plus other costs and advances estimated to date in the amount of $. . . . . From and after the date of this notice you must submit a written request to the Trustee to obtain the total amount to pay off the entire obligation secured by your Deed of Trust as of the payoff date.

As to the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust, you must cure each such default. Listed below are the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust. Opposite each such listed default is a brief description of the action necessary to cure the default and a description of the documentation necessary to show that the default has been cured.

Default	Description of Action Required to Cure and Documentation Necessary to Show Cure
. . . . .	. . . . .
	. . . . .
	. . . . .
. . . . .	. . . . .
	. . . . .
	. . . . .

You may reinstate your Deed of Trust and the obligation secured thereby at any time up to and including the . . . . day of . . . . . ., . . . [11 days before the sale date], by paying the amount set forth or estimated above and by curing any other defaults described above. Of course, as time passes other payments may become due, and any further payments coming due and any additional late charges must be added to your reinstating payment. Any new defaults not involving payment of money that occur after the date of this notice must also be cured in order to effect reinstatement. In addition, because some of the charges can only be estimated at this time, and because the amount necessary to reinstate or to pay off the entire indebtedness may include presently unknown expenditures required to preserve the property or to comply with state or local law, it will be necessary for you to contact the Trustee before the time you tender reinstatement or the payoff amount so that you may be advised of the exact amount you will be required to pay. Tender of payment or performance must be made to: . . . . . ., whose address is . . . . . ., telephone ( ) . . . . . AFTER THE . . . . DAY OF . . . . . ., . . ., YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND FEES AND CURING THE OTHER DEFAULTS AS OUTLINED ABOVE. The Trustee will respond to any written request for current payoff or reinstatement amounts within ten days of receipt of your written request. In such a case, you will only be able to stop the sale by paying, before the sale, the total principal balance ($ . . . . . .) plus accrued interest, costs and advances, if any, made pursuant to the terms of the documents and by curing the other defaults as outlined above.

You may contest this default by initiating court action in the Superior Court of the county in which the sale is to be held. In such action, you may raise any legitimate defenses you have to this default. A copy of your Deed of Trust and documents evidencing the obligation secured thereby are enclosed. You may wish to consult a lawyer. Legal action on your part may prevent or restrain the sale, but only if you persuade the court of the merits of your defense. You may contact the Department of Financial Institutions or the statewide civil legal aid hotline for possible assistance or referrals.

The court may grant a restraining order or injunction to restrain a trustee's sale pursuant to RCW 61.24.130 upon five days notice to the trustee of the time when, place where, and the judge before whom the application for the restraining order or injunction is to be made. This notice shall include copies of all pleadings and related documents to be given to the judge. Notice and other process may be served on the trustee at:

NAME: . . . . . .
ADDRESS: . . . . . .
. . . . . .
TELEPHONE NUMBER: . . . . . .

If you do not reinstate the secured obligation and your Deed of Trust in the manner set forth above, or if you do not succeed in restraining the sale by court action, your property will be sold. The effect of such sale will be to deprive you and all those who hold by, through or under you of all interest in the property;

(3) In addition, the trustee shall cause a copy of the notice of sale described in subsection (1)(f) of this section (excluding the acknowledgment) to be published in a legal newspaper in each county in which the property or any part

thereof is situated, once on or between the thirty-fifth and twenty-eighth day before the date of sale, and once on or between the fourteenth and seventh day before the date of sale;

(4) On the date and at the time designated in the notice of sale, the trustee or its authorized agent shall sell the property at public auction to the highest bidder. The trustee may sell the property in gross or in parcels as the trustee shall deem most advantageous;

(5) The place of sale shall be at any designated public place within the county where the property is located and if the property is in more than one county, the sale may be in any of the counties where the property is located. The sale shall be on Friday, or if Friday is a legal holiday on the following Monday, and during the hours set by statute for the conduct of sales of real estate at execution;

(6) The trustee has no obligation to, but may, for any cause the trustee deems advantageous, continue the sale for a period or periods not exceeding a total of one hundred twenty days by (a) a public proclamation at the time and place fixed for sale in the notice of sale and if the continuance is beyond the date of sale, by giving notice of the new time and place of the sale by both first class and either certified or registered mail, return receipt requested, to the persons specified in subsection (1)(b)(i) and (ii) of this section to be deposited in the mail (i) not less than four days before the new date fixed for the sale if the sale is continued for up to seven days; or (ii) not more than three days after the date of the continuance by oral proclamation if the sale is continued for more than seven days, or, alternatively, (b) by giving notice of the time and place of the postponed sale in the manner and to the persons specified in subsection (1)(b), (c), (d), and (e) of this section and publishing a copy of such notice once in the newspaper(s) described in subsection (3) of this section, more than seven days before the date fixed for sale in the notice of sale. No other notice of the postponed sale need be given;

(7) The purchaser shall forthwith pay the price bid and on payment the trustee shall execute to the purchaser its deed; the deed shall recite the facts showing that the sale was conducted in compliance with all of the requirements of this chapter and of the deed of trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value, except that these recitals shall not affect the lien or interest of any person entitled to notice under subsection (1) of this section, if the trustee fails to give the required notice to such person. In such case, the lien or interest of such omitted person shall not be affected by the sale and such omitted person shall be treated as if such person was the holder of the same lien or interest and was omitted as a party defendant in a judicial foreclosure proceeding;

(8) The sale as authorized under this chapter shall not take place less than one hundred ninety days from the date of default in any of the obligations secured;

(9) If the trustee elects to foreclose the interest of any occupant or tenant of property comprised solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, the following notice shall be included as Part X of the Notice of Trustee's Sale:

X. NOTICE TO OCCUPANTS OR TENANTS

The purchaser at the trustee's sale is entitled to possession of the property on the 20th day following the sale, as against the grantor under the deed of trust (the owner) and anyone having an interest junior to the deed of trust, including occupants who are not tenants. After the 20th day following the sale the purchaser has the right to evict occupants who are not tenants by summary proceedings under chapter 59.12 RCW. For tenant-occupied property, the purchaser shall provide a tenant with written notice in accordance with RCW 61.24.060;

(10) Only one copy of all notices required by this chapter need be given to a person who is both the borrower and the grantor. All notices required by this chapter that are given to a general partnership are deemed given to each of its general partners, unless otherwise agreed by the parties.

NEW SECTION. **Sec. 11.** A new section is added to chapter 61.24 RCW to read as follows:

(1) A borrower who has been referred to mediation before the effective date of this section may continue through the mediation process and does not lose his or her right to mediation.

(2) A borrower who has not been referred to mediation as of the effective date of this section may only be referred to mediation after a notice of default has been issued but no later than twenty days from the date a notice of sale is recorded.

(3) A borrower who has not been referred to mediation as of the effective date of this section and who has had a notice of sale recorded may only be referred to mediation if the referral is made before twenty days have passed from the date the notice of sale was recorded.

Sec. 12. RCW 61.24.172 and 2011 c 58 s 11 are each amended to read as follows:

The foreclosure fairness account is created in the custody of the state treasurer. All receipts received under RCW 61.24.174 must be deposited into the account. Only the director of the department of commerce or the director's designee may authorize expenditures from the account. Funding to agencies and organizations under this section must be provided by the department through an interagency agreement or other applicable contract instrument. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account must be used as follows: (1) No less than ((~~eighty~~)) seventy-six percent must be used for the purposes of providing housing ((~~counselors for~~)) counseling activities to benefit borrowers, except that this amount may be less than ((~~eighty~~)) seventy-six percent only if necessary to meet the funding level specified for the office of the attorney general under subsection (2) of this section and the department under subsection (4) of this section; (2) up to six percent, or six hundred fifty-five thousand dollars per biennium, whichever amount is greater, to the office of the attorney general to be used by the consumer protection division to enforce this chapter; (3) up to two percent to the office of civil legal aid to be used for the purpose of contracting with qualified legal aid programs for legal representation of homeowners in matters relating to foreclosure. Funds provided under this subsection (3) must be used to supplement, not supplant, other federal, state, and

local funds; (4) up to ((~~nine~~)) thirteen percent, or ((~~four hundred fifty-one~~)) five hundred ninety thousand dollars per biennium, whichever amount is greater, to the department to be used for implementation and operation of the foreclosure fairness act; and (5) up to three percent to the department of financial institutions to conduct homeowner prepurchase and postpurchase outreach and education programs as defined in RCW 43.320.150.

The department shall enter into interagency agreements to contract with the Washington state housing finance commission and other appropriate entities to implement the foreclosure fairness act.

Sec. 13. RCW 61.24.010 and 2009 c 292 s 7 are each amended to read as follows:

(1) The trustee of a deed of trust under this chapter shall be:

(a) Any domestic corporation or domestic limited liability corporation incorporated under Title 23B, 25, 30, 31, 32, or 33 RCW of which at least one officer is a Washington resident; or

(b) Any title insurance company authorized to insure title to real property under the laws of this state, or any title insurance agent licensed under chapter 48.17 RCW; or

(c) Any attorney who is an active member of the Washington state bar association at the time the attorney is named trustee; or

(d) Any professional corporation incorporated under chapter 18.100 RCW, any professional limited liability company formed under chapter 25.15 RCW, any general partnership, including limited liability partnerships, formed under chapter 25.04 RCW, all of whose shareholders, members, or partners, respectively, are either licensed attorneys or entities, provided all of the owners of those entities are licensed attorneys, or any domestic corporation wholly owned by any of the entities under this subsection (1)(d); or

(e) Any agency or instrumentality of the United States government; or

(f) Any national bank, savings bank, or savings and loan association chartered under the laws of the United States.

(2) The trustee may resign at its own election or be replaced by the beneficiary. The trustee shall give prompt written notice of its resignation to the beneficiary. The resignation of the trustee shall become effective upon the recording of the notice of resignation in each county in which the deed of trust is recorded. If a trustee is not appointed in the deed of trust, or upon the resignation, incapacity, disability, absence, or death of the trustee, or the election of the beneficiary to replace the trustee, the beneficiary shall appoint a trustee or a successor trustee. Only upon recording the appointment of a successor trustee in each county in which the deed of trust is recorded, the successor trustee shall be vested with all powers of an original trustee.

(3) The trustee or successor trustee shall have no fiduciary duty or fiduciary obligation to the grantor or other persons having an interest in the property subject to the deed of trust.

(4) The trustee or successor trustee has a duty of good faith to the borrower, beneficiary, and grantor.

Sec. 14. RCW 61.24.050 and 1998 c 295 s 7 are each amended to read as follows:

((~~When delivered~~)) (1) Upon physical delivery of the trustee's deed to the purchaser, or a different grantee as designated by the purchaser following the trustee's sale, the trustee's deed shall convey all of the right, title, and interest in the real and personal property sold at the trustee's sale which the grantor had or had the power to convey at the time of the execution of the deed of trust, and such as the grantor may have thereafter acquired. Except as provided in subsection (2) of this section, if the trustee accepts a bid, then the trustee's sale is final as of the date and time of such acceptance if the trustee's deed is recorded within fifteen days thereafter. After a trustee's sale, no person shall have any right, by statute or otherwise, to redeem the property sold at the trustee's sale.

(2)(a) Up to the eleventh day following the trustee's sale, the trustee, beneficiary, or authorized agent for the beneficiary may declare the trustee's sale and trustee's deed void for the following reasons:

(i) The trustee, beneficiary, or authorized agent for the beneficiary assert that there was an error with the trustee foreclosure sale process including, but not limited to, an erroneous opening bid amount made by or on behalf of the foreclosing beneficiary at the trustee's sale;

(ii) The borrower and beneficiary, or authorized agent for the beneficiary, had agreed prior to the trustee's sale to a loan modification agreement, forbearance plan, shared appreciation mortgage, or other loss mitigation agreement to postpone or discontinue the trustee's sale; or

(iii) The beneficiary or authorized agent for the beneficiary had accepted funds that fully reinstated or satisfied the loan even if the beneficiary or authorized agent for the beneficiary had no legal duty to do so.

(b) This subsection does not impose a duty upon the trustee any different than the obligations set forth under RCW 61.24.010 (3) and (4).

(3) The trustee must refund the bid amount to the purchaser no later than the third day following the postmarked mailing of the rescission notice described under subsection (4) of this section.

(4) No later than fifteen days following the voided trustee's sale date, the trustee shall send a notice in substantially the following form by first-class mail and certified mail, return receipt requested, to all parties entitled to notice under RCW 61.24.040(l) (b) through (e):

NOTICE OF RESCISSION OF TRUSTEE'S SALE

NOTICE IS HEREBY GIVEN that the trustee's sale that occurred on (trustee's sale date) is rescinded and declared void because (insert the applicable reason(s) permitted under RCW 61.24.050(2)(a)).

The trustee's sale occurred pursuant to that certain Notice of Trustee's Sale dated . . . ., . . ., recorded . . . ., . . ., under Auditor's File No. . . ., records of . . . . County, Washington, and that certain Deed of Trust dated . . . ., . . ., recorded . . . ., . . ., under Auditor's File No. . . ., records of . . . . County, Washington, from . . . ., as Grantor, to . . . ., as . . . ., as original Beneficiary, concerning the following described property, situated in the County(ies) of . . . ., State of Washington, to wit:

(Legal description)

Commonly known as (common property address)

(5) If the reason for the rescission stems from subsection (2)(a) (i) or (ii) of this section, the trustee may set a new sale date not less than forty-five days following the mailing of the notice of rescission of trustee's sale. The trustee shall:

(a) Comply with the requirements of RCW 61.24.040(1) (a) through (f) at least thirty days before the new sale date; and

(b) Cause a copy of the notice of trustee's sale as provided in RCW 61.24.040(1)(f) to be published in a legal newspaper in each county in which the property or any part of the property is situated, once between the thirty-fifth and twenty-eighth day before the sale and once between the fourteenth and seventh day before the sale.

NEW SECTION. **Sec. 15.** Section 12 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 6, 2012.
Passed by the Senate March 5, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 186

[Substitute House Bill 2617]

SCHOOL DISTRICTS—FINANCIAL INSOLVENCY

AN ACT Relating to school district financial insolvency; amending RCW 28A.315.025, 28A.315.065, 28A.315.095, 28A.315.195, 28A.315.205, 28A.315.215, 28A.315.225, 28A.315.265, 28A.315.285, 28A.315.305, 28A.315.315, 28A.343.040, 84.09.030, 84.52.053, 39.64.040, 28A.400.300, and 28A.645.010; adding new sections to chapter 28A.315 RCW; adding a new section to chapter 28A.405 RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; and providing an effective date.

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

Sec. 1. RCW 28A.315.025 and 2006 c 263 s 505 are each amended to read as follows:

As used in this chapter:

(1) "Change in the organization and extent of school districts" means the formation and establishment of new school districts, the dissolution of existing school districts, the alteration of the boundaries of existing school districts, or all of them.

(2) "Regional committee" means the regional committee on school district organization created by this chapter.

(3) "School district" means the territory under the jurisdiction of a single governing board designated and referred to as the board of directors.

(4) "Educational service district superintendent" means the educational service district superintendent as provided for in RCW 28A.310.170 or his or her designee.

(5) "Financial oversight committee" means a committee convened pursuant to section 8 of this act.

(6) "Financially insolvent district" means a school district that:

(a) Has been on binding conditions pursuant to RCW 28A.505.110 for two consecutive years and is unable to prepare a satisfactory financial plan; or

(b) Is reasonably foreseeable and likely to have a deficit general fund balance within three years and is unable to prepare a satisfactory financial plan.

(7) "Satisfactory financial plan" means a plan approved by the superintendent of public instruction and the educational service district where a school district is located demonstrating the school district will have an adequate fund balance at the end of the plan period relying on:

(a) Currently available revenue streams provided by federal, state, or local resources; or

(b) Other revenue streams determined reasonably reliable by the educational service district where the school district is located.

Sec. 2. RCW 28A.315.065 and 1999 c 315 s 204 are each amended to read as follows:

(((~~(1)~~))) Any district boundary changes shall be ((~~submitted to~~)) filed for recording with the county auditor by the educational service district superintendent within thirty days after the changes have been approved in accordance with this chapter. The superintendent shall submit both legal descriptions and maps. District boundary changes shall be effective the date specified in the educational service district superintendent's order.

((~~(2) Any boundary changes submitted to the county auditor after the fourth Monday in June of odd-numbered years does not take effect until the following calendar year.~~))

Sec. 3. RCW 28A.315.095 and 1999 c 315 s 301 are each amended to read as follows:

The powers and duties of each regional committee are to:

(1) Hear and approve or disapprove proposals for changes in the organization and extent of school districts in the educational service districts when a hearing on a proposal has been requested under ((~~RCW 28A.315.195~~)) section 5 of this act;

(2) ((~~Act on notices and proposals from the educational service district under RCW 28A.315.225;~~

~~(3)~~)) Make an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness and excess tax levies as otherwise authorized under this section, as to the old school districts and the new district or districts, if any, involved in or affected by a proposed change in the organization and extent of the school districts;

(((~~(4)~~))) (3) Make an equitable adjustment of the bonded indebtedness outstanding against any of the old and new districts whenever in its judgment such adjustment is advisable, as to all of the school districts involved in or affected by any change heretofore or hereafter effected, subject to the requirements in RCW 28A.315.265;

(((~~(5)~~))) (4) Provide that territory transferred from a school district by a change in the organization and extent of school districts, other than changes required pursuant to RCW 28A.315.225, shall either remain subject to, or be relieved of, any one or more excess tax levies that are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory from the school district;

(((~~(6)~~))) (5) Provide that territory transferred to a school district by a change in the organization and extent of school districts, other than changes required pursuant to RCW 28A.315.225, shall either be made subject to, or be relieved of, any one or more excess tax levies that are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory to the school district;

(6)(a) Provide that a school district that is annexing or receiving territory from a financially insolvent school district pursuant to RCW 28A.315.225 may submit to the voters of the entire school district, including the territory to be annexed or transferred, a proposition for a replacement or supplemental levy pursuant to RCW 84.52.053(2)(b);

(b) Provide that, if an election under (a) of this subsection has not occurred or has failed, territory transferred from a financially insolvent school district to another school district or districts pursuant to RCW 28A.315.225 must be relieved of any one or more excess tax levies that are authorized for the financially insolvent school district under RCW 84.52.053 before the effective date of the transfer of territory from the financially insolvent school district;

(c) Provide that, if an election under (a) of this subsection has not occurred or has failed, territory transferred from a financially insolvent school district to another school district or districts pursuant to RCW 28A.315.225 must be made subject to any one or more excess tax levies that are authorized for the receiving school district or districts under RCW 84.52.053 before the effective date of the transfer of territory to the receiving school district or districts;

(7) Establish the date by which a committee-approved transfer of territory shall take effect;

(8) Hold and keep a record of a public hearing or public hearings (a) on every proposal for the formation of a new school district or for the transfer from one existing district to another of any territory in which children of school age reside or for annexation of territory when the conditions set forth in RCW ((~~28A.315.290 or 28A.315.320~~)) 28A.315.225 prevail; and (b) on every proposal for adjustment of the assets and of the liabilities of school districts provided for in this chapter. Three members of the regional committee or two members of the committee and the educational service district superintendent may be designated by the committee to hold any public hearing that the committee is required to hold. The regional committee shall cause notice to be given, at least ten days prior to the date appointed for any such hearing, in one or more newspapers of general circulation within the geographical boundaries of the school districts affected by the proposed change or adjustment. In addition notice may be given by radio and television, or either thereof, when in the committee's judgment the public interest will be served thereby; and

(9) Prepare and submit to the superintendent of public instruction from time to time or, upon his or her request, reports and recommendations respecting the urgency of need for school plant facilities, the kind and extent of the facilities required, and the development of improved local school administrative units and attendance areas in the case of school districts that seek state assistance in providing school plant facilities.

Sec. 4. RCW 28A.315.195 and 2008 c 159 s 1 are each amended to read as follows:

(1) A proposed change in school district organization by transfer of territory from one school district to another may be initiated by a petition in writing presented to the educational service district superintendent:

(a) Signed by at least fifty percent plus one of the active registered voters residing in the territory proposed to be transferred; or

(b) Signed by a majority of the members of the board of directors of one of the districts affected by a proposed transfer of territory and providing documentation that, before signing the petition, the board of directors took the following actions:

(i) Communicated the proposed transfer to the board of directors of the affected district or districts and provided an opportunity for the board of the affected district or districts to respond; and

(ii) Communicated the proposed transfer to the registered voters residing in the territory proposed to be transferred, provided notice of a public hearing regarding the proposal, and provided the voters an opportunity to comment on the proposal at the public hearing.

(2) The petition shall state the name and number of each district affected, describe the boundaries of the territory proposed to be transferred, and state the reasons for desiring the change and the number of children of school age, if any, residing in the territory.

(3) The educational service district superintendent shall not complete any transfer of territory under this section that involves ten percent or more of the common school student population of the entire district from which the transfer is proposed, unless the educational service district superintendent has first called and held a special election of the voters of the entire school district from which the transfer of territory is proposed. The purpose of the election is to afford those voters an opportunity to approve or reject the proposed transfer. A simple majority shall determine approval or rejection.

(4) The superintendent of public instruction may establish rules limiting the frequency of petitions that may be filed pertaining to territory included in whole or in part in a previous petition.

(5) ((~~Upon receipt of the petition, the educational service district superintendent shall notify in writing the affected districts that:~~

~~(a) Each school district board of directors, whether or not initiating a proposed transfer of territory, is required to enter into negotiations with the affected district or districts;~~

~~(b) In the case of a citizen-initiated petition, the affected districts must negotiate on the entire proposed transfer of territory;~~

~~(c) The districts have ninety calendar days in which to agree to the proposed transfer of territory;~~

~~(d) The districts may request and shall be granted by the educational service district superintendent one thirty-day extension to try to reach agreement; and~~

~~(e) Any district involved in the negotiations may at any time during the ninety-day period notify the educational service district superintendent in writing that agreement will not be possible.~~

~~(6) If the negotiating school boards cannot come to agreement about the proposed transfer of territory, the educational service district superintendent, if requested by the affected districts, shall appoint a mediator. The mediator has~~

~~thirty days to work with the affected school districts to see if an agreement can be reached on the proposed transfer of territory.~~

~~(7) If the affected school districts cannot come to agreement about the proposed transfer of territory, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, either district may file with the educational service district superintendent a written request for a hearing by the regional committee.~~

~~(8) If the affected school districts cannot come to agreement about~~ ~~the proposed transfer of territory initiated by citizen petition, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, the district in which the citizens who filed the petition reside shall file with the educational service district superintendent a written request for a hearing by the regional committee, unless a majority of the citizen petitioners request otherwise.~~

~~(9) Upon receipt of a notice under subsection (7) or (8) of this section, the educational service district superintendent shall notify the chair of the regional committee in writing within ten days.~~

~~(10) Costs incurred by school districts under this section shall be reimbursed by the state from such funds as are appropriated for this purpose.~~)) A petition to transfer territory must be processed in accordance with section 5 of this act and RCW 28A.315.205.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.315 RCW to read as follows:

(1) Upon receipt of a petition to transfer territory pursuant to RCW 28A.315.195 or to dissolve a financially insolvent school district pursuant to RCW 28A.315.225, the educational service district superintendent shall notify in writing the affected districts that:

(a) Each school district board of directors, whether or not initiating a proposed transfer of territory or dissolution, must enter into negotiations with the affected district or districts;

(b) In the case of a citizen-initiated petition, the affected districts must negotiate on the entire proposed transfer of territory;

(c) The districts have ninety calendar days in which to agree to the proposed transfer of territory or to agree on the annexation of a financially insolvent district;

(d) Districts negotiating an agreement regarding annexation of a dissolving financially insolvent district may not agree to not dissolve a financially insolvent district;

(e) The agreement between at least one contiguous district and a financially insolvent district regarding the annexation of the dissolving district and the distribution of assets and liabilities is subject to approval by the financial oversight committee;

(f) The districts may request and shall be granted by the educational service district superintendent one thirty-day extension to try to reach agreement; and

(g) Any district involved in the negotiations may at any time during the ninety-day period notify the educational service district superintendent in writing that agreement will not be possible.

(2) If the negotiating school boards cannot come to agreement about the proposed transfer of territory, or cannot agree how to annex a financially

insolvent district, the educational service district superintendent, if requested by the affected districts, shall appoint a mediator. The mediator has thirty days to work with the affected school districts to see if an agreement can be reached on the proposed transfer of territory.

(3) If the affected school districts cannot come to agreement about the proposed transfer of territory, or cannot agree how to annex a financially insolvent district, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, any affected district may file with the educational service district superintendent a written request for a hearing by the regional committee.

(4) If the affected school districts cannot come to agreement about the proposed transfer of territory initiated by citizen petition, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, the district in which the citizens who filed the petition reside must file with the educational service district superintendent a written request for a hearing by the regional committee, unless a majority of the citizen petitioners request otherwise.

(5) Upon receipt of a notice under subsection (3) or (4) of this section, the educational service district superintendent must notify the chair of the regional committee in writing within ten days.

(6) Costs incurred by school districts under this section shall be reimbursed by the state from such funds as are appropriated for this purpose.

Sec. 6. RCW 28A.315.205 and 2008 c 159 s 2 are each amended to read as follows:

(1) The chair of the regional committee shall schedule a hearing on the proposed transfer of territory or dissolution petition at a location in the educational service district within sixty calendar days of being notified under ((~~RCW 28A.315.195 (7) or (8)~~)) section 5(3) or (4) of this act.

(2) Within thirty calendar days of the hearing under subsection (1) of this section, or final hearing if more than one is held by the committee, the committee shall issue its written findings and decision to approve or disapprove the proposed transfer of territory or the dissolution and annexation of a financially insolvent district. The educational service district superintendent shall transmit a copy of the committee's decision to the superintendents of the affected school districts within ten calendar days.

(3) In carrying out the purposes of RCW 28A.315.015 and in making decisions as authorized under RCW 28A.315.095(1), the regional committee shall base its judgment upon whether and to the extent the proposed change in school district organization complies with RCW 28A.315.015(2) and rules adopted by the superintendent of public instruction under chapter 34.05 RCW.

(4) The rules under subsection (3) of this section shall provide for giving consideration to all of the following:

(a) Student educational opportunities as measured by the percentage of students performing at each level of the statewide mandated assessments and data regarding student attendance, graduation, and dropout rates;

(b) The safety and welfare of pupils. For the purposes of this subsection, "safety" means freedom or protection from danger, injury, or damage and "welfare" means a positive condition or influence regarding health, character, and well-being;

(c) The history and relationship of the property affected to the students and communities affected, including, for example, the impact of the growth management act and current or proposed urban growth areas, city boundaries, and master planned communities;

(d) Whether or not geographic accessibility warrants a favorable consideration of a recommended change in school district organization, including remoteness or isolation of places of residence and time required to travel to and from school; and

(e) All funding sources of the affected districts, equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per pupil valuation when all funding sources are considered, improvement in the economies in the administration and operation of schools, and the extent the proposed change would potentially reduce or increase the individual and aggregate transportation costs of the affected school districts.

(5)(a)(i) A petitioner or school district may appeal a decision by the regional committee to the superintendent of public instruction based on the claim that the regional committee failed to follow the applicable statutory and regulatory procedures or acted in an arbitrary and capricious manner. Any such appeal shall be based on the record and the appeal must be filed within thirty days of the final decision of the regional committee. The appeal shall be heard and determined by an administrative law judge in the office of administrative hearings, based on the standards in (a)(ii) of this subsection.

(ii) If the administrative law judge finds that all applicable procedures were not followed or that the regional committee acted in an arbitrary and capricious manner, the administrative law judge shall refer the matter back to the regional committee with an explanation of his or her findings. The regional committee shall rehear the proposal.

(iii) If the administrative law judge finds that all applicable procedures were followed or that the regional committee did not act in an arbitrary and capricious manner, depending on the appeal, the educational service district shall be notified and directed to implement the changes.

(iv) The administrative law judge shall expedite review and issuance of a decision on an appeal of a decision approving the dissolution and annexation of a financially insolvent district.

(b) Any school district or citizen petitioner affected by a final decision of the regional committee may seek judicial review of the committee's decision in accordance with RCW 34.05.570. Judicial review of a regional committee decision approving dissolution and annexation of a financially insolvent district must be expedited.

Sec. 7. RCW 28A.315.215 and 1999 c 315 s 403 are each amended to read as follows:

(1) Upon receipt by the educational service district superintendent of a written agreement by two or more school districts to the transfer of territory between the affected districts, or an agreement approved by the financial oversight committee regarding the annexation of a financially insolvent district, the superintendent shall make an order establishing all approved changes involving the alteration of the boundaries of the affected districts. The order shall also establish all approved terms of the equitable adjustment of assets and

liabilities involving the affected districts, with the effective date of such alterations to the boundaries. For school districts that are dissolved and annexed pursuant to RCW 28A.315.225, the order shall provide that any excess tax levy approved, including previously approved and imposed excess levies by the school district annexing or receiving the transferred territory from the financially insolvent school district and replacement and supplemental levies voted upon by voters of the entire newly established territory before the effective date of the dissolution by the school district receiving the transferred territory from the dissolved school district shall, in the cases of previously approved and imposed excess levies of the annexing or receiving school district, be imposed on the newly annexed, or dissolved territory, and in the case of replacement or supplemental levies, the entire newly established territory, pursuant to RCW 84.09.030. The superintendent shall ((~~certify~~)) file his or her action ((~~to~~)) with each county auditor, each county treasurer, each county assessor, the office of the secretary of state, the office of the superintendent of public instruction, and the superintendents of all school districts affected by the action.

(2)(a) Upon receipt by the educational service district superintendent of a written ((~~order~~)) decision by the regional committee approving the transfer of territory between two or more school districts, or the dissolution and annexation of a financially insolvent school district, the superintendent shall make an order establishing all approved changes involving the alteration of the boundaries of the affected districts, with the effective date of such alterations to the boundaries. The effective date of boundary alterations shall be no later than sixty days prior to the first day candidates may file for office for the next succeeding general or special election.

(b) The order may not be implemented before the period of appeal authorized under RCW 28A.315.205(5)(a)(i) has ended.

(c) The order shall also establish all approved terms of the equitable adjustment of assets and liabilities involving the affected districts.

(d) For school districts that are dissolved and annexed pursuant to RCW 28A.315.225, the order must provide that any excess tax levy approved, including previously approved and imposed excess levies by the school district annexing or receiving the transferred territory from the financially insolvent school district and replacement and supplemental levies voted upon by voters of the entire newly established territory before the effective date of the dissolution by the school district receiving the transferred territory from the dissolved school district shall, in the cases of previously approved and imposed excess levies of the annexing or receiving school district, be imposed on the newly annexed, or dissolved territory, and in the case of replacement or supplemental levies, the entire newly established territory, pursuant to RCW 84.09.030.

(e) The superintendent shall ((~~certify~~)) file his or her action ((~~to~~)) with each county auditor, the office of the secretary of state, the office of the superintendent of public instruction, each county treasurer, each county assessor, and the superintendents of all school districts affected by the action.

NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.315 RCW to read as follows:

(1) The superintendent of public instruction shall convene a financial oversight committee:

(a) At the request of the board of directors of a financially insolvent district;

(b) When the superintendent of public instruction determines a district is financially insolvent, after first consulting with the educational service district where the district is located and notifying the district the committee will be convened; or

(c) When a district has been on binding conditions pursuant to RCW 28A.505.110 for two consecutive years and does not have a satisfactory financial plan.

(2) The financial oversight committee comprises two representatives from the office of the superintendent of public instruction, one representative from an educational service district where a financially insolvent school district is not located, and one nonvoting representative from the educational service district where the financially insolvent school district is located.

(3) The financial oversight committee shall review the financial condition of a financially insolvent school district. In conducting its review, the committee shall hold a public hearing in the financially insolvent school district or educational service district in order to receive public comment on any proposed financial plans. If the financial oversight committee feels that dissolution of the financially insolvent school district is a valid option, it shall receive input at the public hearing on options for dissolving said school district.

(4) After holding a public hearing as provided in subsection (3) of this section, the financial oversight committee must make a recommendation to the superintendent of public instruction to either dissolve a financially insolvent school district or to place a district under enhanced financial monitoring to reduce the risk of dissolution due to insolvency. The superintendent of public instruction must implement financial oversight committee recommendations via enhanced financial oversight, which will be monitored by the educational service district.

(5) Enhanced financial oversight may include, but is not limited to, the following types of actions, which the superintendent of public instruction is expressly authorized to implement and enforce:

(a) Appointment of a special administrator to oversee and carry out financial conditions imposed on the district as recommended by the financial oversight committee;

(b) Review, approval, and limitations on a school district's authority to enter into contracts;

(c) Review, approval, and limitations on hiring and personnel actions; and

(d) Liquidation or disposition of fixed assets and contractual liabilities by any reasonable and documented method provided the liquidation or disposition of fixed assets and contractual liabilities is reasonably necessary before filing a dissolution petition.

(6) Any new, amended, or renewed contract entered into by a school district that is subject to enhanced financial monitoring that has not been approved by the educational service district or special administrator, or that is inconsistent with conditions imposed on the district pursuant to this section, is null and void.

(7) Any action taken by a school district subject to enhanced financial monitoring that is likely to affect the district's finances is null and void if the action was not approved by the educational service district or special administrator or if the action is inconsistent with conditions imposed on the district pursuant to this section.

(8) The superintendent of public instruction shall adopt rules to carry out the provisions in this section, which may include, but are not limited to, identifying the responsibilities and authority of the financial oversight committee, the educational service district, the special administrator, and the school district and the implementation of enhanced financial oversight.

Sec. 9. RCW 28A.315.225 and 1999 c 315 s 501 are each amended to read as follows:

(1) In case any school district has an average enrollment of fewer than five kindergarten through eighth grade pupils during the preceding school year or has not made a reasonable effort to maintain, during the preceding school year at least the minimum term of school required by law, the educational service district superintendent shall report that fact to the regional committee, which committee shall dissolve the school district and annex the territory thereof to some other district or districts. For the purposes of this section, in addition to any other finding, "reasonable effort" shall be deemed to mean the attempt to make up whatever days are short of the legal requirement by conducting of school classes on any days to include available holidays, though not to include Saturdays and Sundays, prior to June 15th of that year. School districts operating an extended school year program, most commonly implemented as a 45-15 plan, shall be deemed to be making a reasonable effort. In the event any school district has suffered any interruption in its normal school calendar due to a strike or other work stoppage or slowdown by any of its employees that district shall not be subject to this section.

(2) A financially insolvent school district may be dissolved and annexed to one or more contiguous districts, in accordance with an agreement between the insolvent district and at least one other contiguous district, that has been approved by the financial oversight committee, or in accordance with the decision of the regional committee. A financially insolvent district may file bankruptcy only if it is recommended by the financial oversight committee.

(3)(a) A petition to dissolve a financially insolvent school district may be filed with the educational service district superintendent by the superintendent of public instruction if, before signing and filing the petition, the financial oversight committee was convened and recommended that the district be dissolved.

(b) A petition for dissolution under this subsection (3) must include the name of the financially insolvent district, the legal boundaries of the district, the names of contiguous school districts, the basis for concluding the district is financially insolvent, a map with legal description of the proposed annexation of the financially insolvent school district to one or more contiguous school districts, and any proposed equitable adjustments of assets and liabilities for the affected districts. The proposed annexation and equitable adjustment of assets and liabilities must be based on the factors in RCW 28A.315.015(2), 28A.315.205(4), and 28A.315.245.

(c) The superintendent of public instruction, at the recommendation of the financial oversight committee, may take the following actions upon filing a petition to dissolve a financially insolvent school district: Authorize liquidation or disposition of fixed assets and contractual liabilities by any reasonable and documented method.

(d) A petition to dissolve a financially insolvent school district shall be processed in accordance with section 5 of this act and RCW 28A.315.205.

(4) The superintendent of public instruction may request an appropriation to address matters associated with the dissolution of a financially insolvent school district.

(5) The superintendent of public instruction may adopt rules governing actions that may be taken to prevent a school district from being dissolved and to assist in the orderly and timely dissolution and annexation of school districts that are unable to avoid financial insolvency.

(6) In case any territory is not a part of any school district, the educational service district superintendent shall present to the regional committee a proposal for the annexation of the territory to some contiguous district or districts.

NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.315 RCW to read as follows:

(1) As of the effective date of dissolution of a financially insolvent district, all existing employment contracts and collective bargaining agreements of the financially insolvent district shall be extinguished.

(2) School districts that annex or receive territory from a financially insolvent district have full authority to constitute their workforces, and have no duty to bargain with, or observe the former wages and working conditions of, any former employees of a financially insolvent district who may be hired; rather, any employees hired from a financially insolvent district become part of the appropriate bargaining units, if any, of the annexing or receiving district, and their wages and working conditions are defined by the terms of the annexing or receiving district's bargaining agreements or other policies or conditions of employment.

(3) Certificated employees of a district that is dissolved due to financial insolvency have no continuing contract or appeal rights under RCW 28A.405.210 through 28A.405.380 or other law, nor do certificated or classified employees of a district dissolved due to financial insolvency have any resort to grievance or arbitration under a collective bargaining agreement, and any inconsistent provision of any individual contract or collective bargaining agreement is null and void. Sufficient cause for nonrenewal or discharge of such certificated and classified personnel is deemed to exist by sole virtue of the employer district's dissolution for financial insolvency. Notice of nonrenewal or discharge under such circumstances may be given by the educational service district superintendent without regard to date. Any appeal must be addressed to the educational service district board on an expedited basis according to rules established by the superintendent of public instruction, and must be confined to the issue of whether the employer district is dissolved for reasons of financial insolvency. There is no judicial review for the educational service district board's decisions in these matters.

Sec. 11. RCW 28A.315.265 and 1999 c 315 s 703 are each amended to read as follows:

If adjustments of bonded indebtedness are made between or among school districts in connection with the alteration of the boundaries of the school districts under this chapter, the order of the educational service district superintendent

establishing the terms of adjustment of bonded indebtedness shall provide and specify:

(1) In every case where bonded indebtedness is transferred from one school district to another school district:

(a) That such bonded indebtedness is assumed by the school district to which it is transferred;

(b) That thereafter such bonded indebtedness shall be the obligation of the school district to which it is transferred;

(c) That, if the terms of adjustment so provide, any bonded indebtedness thereafter incurred by such transferee school district through the sale of bonds authorized before the date its boundaries were altered shall be the obligation of such school district including the territory added thereto; and

(d) That taxes shall be levied thereafter against the taxable property located within such school district as it is constituted after its boundaries were altered, the taxes to be levied at the times and in the amounts required to pay the principal of and the interest on the bonded indebtedness assumed or incurred, as the same become due and payable.

(2) In computing the debt limitation of any school district from which or to which bonded indebtedness has been transferred, the amount of transferred bonded indebtedness at any time outstanding:

(a) Shall be an offset against and deducted from the total bonded indebtedness, if any, of the school district from which the bonded indebtedness was transferred; and

(b) Shall be deemed to be bonded indebtedness solely of the transferee school district that assumed the indebtedness.

(3) In every case where adjustments of bonded indebtedness do not provide for transfer of bonded indebtedness from one school district to another school district:

(a) That the existing bonded indebtedness of each school district, the boundaries of which are altered and any bonded indebtedness incurred by each such school district through the sale of bonds authorized before the date its boundaries were altered is the obligation of the school district in its reduced or enlarged form, as the case may be; and

(b) That taxes shall be levied thereafter against the taxable property located within each such school district in its reduced or enlarged form, as the case may be, at the times and in the amounts required to pay the principal of and interest on such bonded indebtedness as the same become due and payable.

(4) If a change in school district organization approved by the regional committee concerns a proposal to form a new school district or <u>if a change in school district organization includes</u> a proposal for adjustment of <u>voted general obligation</u> bonded indebtedness ((~~involving an established school district and one or more former school districts now included therein pursuant to a vote of the people concerned~~)), a special election of the voters residing within the territory of the proposed new district, or of the ((~~established~~)) <u>school</u> district involved in a proposal for adjustment of bonded indebtedness as the case may be, shall be held for the purpose of affording those voters an opportunity to approve or reject such proposals as concern or affect them.

(5) In a case involving both the question of the formation of a new school district and the question of adjustment of bonded indebtedness, the questions

may be submitted to the voters either in the form of a single proposition or as separate propositions, whichever seems expedient to the educational service district superintendent. When the regional committee has passed appropriate resolutions for the questions to be submitted and the educational service district superintendent has given notice thereof to the county auditor, the special election shall be called and conducted, and the returns canvassed as in regular school district elections.

Sec. 12. RCW 28A.315.285 and 1999 c 315 s 705 are each amended to read as follows:

(1) If a special election is held to vote on a proposal or alternate proposals to form a new school district, the votes cast by the registered voters in each component district shall be tabulated separately. Any such proposition shall be considered approved only if it receives a majority of the votes cast in each separate district voting thereon.

(2) If a special election is held to vote on a proposal for adjustment of bonded indebtedness, the entire vote cast by the registered voters of the proposed new district or of the established district as the case may be shall be tabulated. Any such proposition shall be considered approved if ((~~sixty percent~~)) three-fifths or more of all votes cast thereon are in the affirmative and forty percent of the voters who voted at the last preceding general election cast a ballot.

(3) In the event of approval of a proposition or propositions voted on at a special election, the educational service district superintendent shall:

(a) Make an order establishing such new school district or such terms of adjustment of bonded indebtedness or both, as were approved by the registered voters and shall also order such other terms of adjustment, if there are any, of property and other assets and of liabilities other than bonded indebtedness as have been approved by the state council; and

(b) Certify his or her action to the county and school district officials specified in RCW 28A.315.215. The educational service district superintendent may designate, with the approval of the superintendent of public instruction, a name and number different from that of any component thereof, but must designate the new district by name and number different from any other district in existence in the county.

(4) The educational service district superintendent shall fix as the effective date of any order or orders he or she is required to make by this chapter, the date specified in the order of final approval of any change in the organization and extent of school districts or of any terms of adjustment of the assets and liabilities of school districts subject, for taxing purposes, to the redrawing of taxing district boundaries under RCW 84.09.030, by the regional committee.

(5) Upon receipt of certification under this section, the superintendent of each school district that is included in the new district shall deliver to the superintendent of the new school district those books, papers, documents, records, and other materials pertaining to the territory transferred.

Sec. 13. RCW 28A.315.305 and 1999 c 315 s 707 are each amended to read as follows:

(1) Each school district involved in or affected by any change made in the organization and extent of school districts under this chapter retains its corporate existence insofar as is necessary for the purpose, until the bonded indebtedness

outstanding against it on and after the effective date of the change has been paid in full. This section may not be construed to prevent, after the effective date of the change, such adjustments of bonded indebtedness as are provided for in this chapter.

(2) The county legislative authority shall provide, by appropriate levies on the taxable property of each school district, for the payment of the bonded indebtedness outstanding against it after any of the changes or adjustments under this chapter have been effected.

(3) In case any such changes or adjustments involve a joint school district, the tax levy for the payment of any bonded indebtedness outstanding against the joint district, after the changes or adjustments are effected, shall be made and the proceeds thereof shall be transmitted, credited, and paid out in conformity with the provisions of law applicable to the payment of the bonded indebtedness of joint school districts.

(4) In case any such changes or adjustments involve the dissolution or annexation of a financially insolvent school district pursuant to RCW 28A.315.225:

(a) The board of directors of a receiving or annexing school district, or the educational service district superintendent as identified in RCW 84.52.020 must certify a tax levy by November 30th in each calendar year that there is outstanding voted bonded indebtedness to pay the principal of and interest on such outstanding voted bonded indebtedness for the following calendar year;

(b) The county treasurer in the county in which the financially insolvent school district is located must collect the levy, the proceeds of which must be deposited into a debt service fund established and overseen by the annexing school district as determined by the financial oversight committee or regional committee to pay the principal of and interest on the dissolved district's outstanding bonded indebtedness as it becomes due;

(c) For outstanding voted bonded indebtedness of the financially insolvent school district, the board of directors of the receiving or annexing school district may determine that all or any portion of the voted bonded indebtedness be refunded pursuant to chapter 39.53 RCW, in which case the board of directors of the annexing or receiving district shall act as the governing body of the financially insolvent school district and is expressly empowered to take all action it deems necessary to accomplish such refunding; and

(d) Any balance in the debt service fund of the financially insolvent school district remaining after all such voted bonded indebtedness is paid must be transferred to the general fund of the receiving or annexing school district.

NEW SECTION. **Sec. 14.** A new section is added to chapter 28A.315 RCW to read as follows:

All proceedings that have been taken by any school district, educational service district governing body, or commission, or any officers thereof, for the purpose of effecting a dissolution, annexation, consolidation, or transfer of territory from one or more school districts to one or more other school districts, including but not limited to reorganizing boundaries and making an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness and excess tax levies, are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power, other than constitutional, of the school district, educational service district, or the

governing body or commission or officers thereof to effect such changes in organization of school districts.

Sec. 15. RCW 28A.315.315 and 1990 c 33 s 305 are each amended to read as follows:

(1) An appeal may be taken, as provided for in RCW 28A.645.010, to the superior court of the county in which a school district or any part thereof is situated on any question of adjustment of property and other assets and of liabilities provided for in this chapter. Judicial appeal must be expedited. If the court finds the terms of the adjustment in question not equitable, the court shall make an adjustment that is equitable.

(2) In the case of any financially insolvent school district that is required to transfer territory pursuant to RCW 28A.315.225, no lawsuit may be maintained challenging the imposition of excess tax levies on the territory transferred or annexed pursuant to an order of the superintendent of the educational service district under RCW 28A.315.215 unless that lawsuit is served and filed no later than thirty days after the date of the order.

Sec. 16. RCW 28A.343.040 and 1991 c 288 s 1 are each amended to read as follows:

(1) It is the responsibility of each school district board of directors to prepare for the division or redivision of the district into director districts no later than eight months after any of the following:

((~~(1)~~)) (a) Receipt of federal decennial census data from the redistricting commission established in RCW 44.05.030;

((~~(2)~~)) (b) Consolidation of two or more districts into one district under RCW ((~~28A.315.270~~)) 28A.315.195;

((~~(3)~~)) (c) Transfer of territory to or from the district or dissolution and annexation of a district under RCW ((~~28A.315.280~~)) 28A.315.215; or

(((~~4) Annexation of territory to or from the district under RCW 28A.315.290 or 28A.315.320; or~~

~~(5)~~)) (d) Approval by a majority of the registered voters voting on a proposition authorizing the division of the district into director districts pursuant to RCW ((~~28A.315.590~~)) 28A.343.030.

(2) The districting or redistricting plan shall be consistent with the criteria and adopted according to the procedure established under RCW ((~~29.70.100~~)) 29A.76.010.

Sec. 17. RCW 84.09.030 and 2008 c 86 s 501 are each amended to read as follows:

(1)(a) Except as provided in (b) and (c) of this subsection (1), for the purposes of property taxation and the levy of property taxes, the boundaries of counties, cities, and all other taxing districts shall be the established official boundaries of such districts existing on the first day of August of the year in which the property tax levy is made.

(b) The boundaries for a newly incorporated port district or regional fire protection service authority shall be established on the first day of October if the boundaries of the newly incorporated port district or regional fire protection service authority are coterminous with the boundaries of another taxing district or districts, as they existed on the first day of August of that year.

(c) The boundaries of a school district that is required to receive or annex territory due to the dissolution of a financially insolvent school district under RCW 28A.315.225 must be the established official boundaries of such districts existing on the first day of September of the year in which the property tax levy is made.

(2) In any case where any instrument setting forth the official boundaries of any newly established taxing district, or setting forth any change in the boundaries, is required by law to be filed in the office of the county auditor or other county official, the instrument shall be filed in triplicate. The officer with whom the instrument is filed shall transmit two copies of the instrument to the county assessor.

(3) No property tax levy shall be made for any taxing district whose boundaries are not established as of the dates provided in this section.

Sec. 18. RCW 84.52.053 and 2010 c 237 s 4 are each amended to read as follows:

(1) The limitations imposed by RCW 84.52.050 through 84.52.056, and 84.52.043 shall not prevent the levy of taxes by school districts, when authorized so to do by the voters of such school district in the manner and for the purposes and number of years allowable under Article VII, section 2(a) of the Constitution of this state. Elections for such taxes shall be held in the year in which the levy is made or, in the case of propositions authorizing two-year through four-year levies for maintenance and operation support of a school district, authorizing two-year levies for transportation vehicle funds established in RCW 28A.160.130, or authorizing two-year through six-year levies to support the construction, modernization, or remodeling of school facilities, which includes the purposes of RCW 28A.320.330(2) (f) and (g), in the year in which the first annual levy is made.

(2)(a) Once additional tax levies have been authorized for maintenance and operation support of a school district for a two-year through four-year period as provided under subsection (1) of this section, no further additional tax levies for maintenance and operation support of the district for that period may be authorized, except for additional levies to provide for subsequently enacted increases affecting the district's levy base or maximum levy percentage.

(b) Notwithstanding (a) of this subsection, any school district that is required to annex or receive territory pursuant to a dissolution of a financially insolvent school district pursuant to RCW 28A.315.225 may call either a replacement or supplemental levy election within the school district, including the territory annexed or transferred, as follows:

(i) An election for a proposition authorizing two-year through four-year levies for maintenance and operation support of a school district may be called and held before the effective date of dissolution to replace existing maintenance and operation levies and to provide for increases due to the dissolution.

(ii) An election for a proposition authorizing additional tax levies may be called and held before the effective date of dissolution to provide for increases due to the dissolution.

(iii) In the event a replacement levy election under (b)(i) of this subsection is held but does not pass, the affected school district may subsequently hold a supplemental levy election pursuant to (b)(ii) of this subsection if the supplemental levy election is held before the effective date of dissolution. In the

event a supplemental levy election is held under subsection (b)(ii) of this subsection but does not pass, the affected school district may subsequently hold a replacement levy election pursuant to (b)(i) of this subsection if the replacement levy election is held before the effective date of dissolution. Failure of a replacement levy or supplemental levy election does not affect any previously approved and existing maintenance and operation levy within the affected school district or districts.

(c) For the purpose of applying the limitation of this subsection (2), a two-year through six-year levy to support the construction, modernization, or remodeling of school facilities shall not be deemed to be a tax levy for maintenance and operation support of a school district.

(3) A special election may be called and the time therefor fixed by the board of school directors, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no."

Sec. 19. RCW 39.64.040 and 1935 c 143 s 5 are each amended to read as follows:

Subject to the requirement in RCW 28A.315.225(2), any taxing district in the state of Washington is hereby authorized to file the petition mentioned in section 80 of chapter IX of the federal bankruptcy act.

Sec. 20. RCW 28A.400.300 and 2009 c 47 s 2 are each amended to read as follows:

(1) Every board of directors, unless otherwise specially provided by law, shall:

(((~~(1)~~))) (a) Except as provided in subsection (3) of this section, employ for not more than one year, and for sufficient cause discharge all certificated and classified employees;

(((~~(2)~~))) (b) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or classified qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement and, emergencies for both certificated and classified employees, and with such compensation as the board of directors prescribe: PROVIDED, That the board of directors shall adopt written policies granting to such persons annual leave with compensation for illness, injury and emergencies as follows:

(((~~(a)~~))) (i) For such persons under contract with the school district for a full year, at least ten days;

(((~~(b)~~))) (ii) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(((~~(c)~~))) (iii) For certificated and classified employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per year; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue

in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

((~~(d)~~)) (iv) Compensation for leave for illness or injury actually taken shall be the same as the compensation such person would have received had such person not taken the leave provided in this proviso;

((~~(e)~~)) (v) Leave provided in this proviso not taken shall accumulate from year to year up to a maximum of one hundred eighty days for the purposes of RCW 28A.400.210 and 28A.400.220, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one year. Such accumulated time may be taken at any time during the school year or up to twelve days per year may be used for the purpose of payments for unused sick leave;

((~~(f)~~)) (vi) Sick leave heretofore accumulated under section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated under administrative practice of school districts prior to the effective date of section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) is hereby declared valid, and shall be added to leave for illness or injury accumulated under this proviso;

((~~(g)~~)) (vii) Any leave for injury or illness accumulated up to a maximum of forty-five days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire, if such leave is taken it may not be compensated under the provisions of RCW 28A.400.210 and 28A.310.490;

((~~(h)~~)) (viii) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction, offices of educational service district superintendents and boards, the state school for the blind, the ((~~school for the deaf~~)) Washington state center for childhood deafness and hearing loss, institutions of higher education, and community and technical colleges, to and from such districts, schools, offices, institutions of higher education, and community and technical colleges;

((~~(i)~~)) (ix) Leave accumulated by a person in a district prior to leaving said district may, under rules of the board, be granted to such person when the person returns to the employment of the district.

(2) When any certificated or classified employee leaves one school district within the state and commences employment with another school district within the state, the employee shall retain the same seniority, leave benefits and other benefits that the employee had in his or her previous position: PROVIDED, That classified employees who transfer between districts after July 28, 1985, shall not retain any seniority rights other than longevity when leaving one school district and beginning employment with another. If the school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service.

(3) Notwithstanding subsection (1)(a) of this section, discharges of certificated and classified employees in school districts that are dissolved due to financial insolvency shall be conducted in accordance with section 10 of this act.

NEW SECTION. **Sec. 21.** A new section is added to chapter 28A.405 RCW to read as follows:

Notwithstanding the provisions of RCW 28A.405.210 through 28A.405.380, the employment status, the processes for notices of discharge or nonrenewal, and the appeal rights of certificated employees in school districts that are dissolved due to financial insolvency shall be as provided in section 10 of this act.

Sec. 22. RCW 28A.645.010 and 1990 c 33 s 544 are each amended to read as follows:

(1) Any person, or persons, either severally or collectively, aggrieved by any decision or order of any school official or board, within thirty days after the rendition of such decision or order, or of the failure to act upon the same when properly presented, may appeal the same to the superior court of the county in which the school district or part thereof is situated, by filing with the secretary of the school board if the appeal is from board action or failure to act, otherwise with the proper school official, and filing with the clerk of the superior court, a notice of appeal which shall set forth in a clear and concise manner the errors complained of.

(2)(a) Appeals by teachers, principals, supervisors, superintendents, or other certificated employees from the actions of school boards with respect to discharge or other action adversely affecting their contract status, or failure to renew their contracts for the next ensuing term shall be governed by the appeal provisions of chapters 28A.400 and 28A.405 RCW therefor and in all other cases shall be governed by chapter 28A.645 RCW.

(b) Appeals from nonrenewal or discharge by employees of school districts that are dissolved due to financial insolvency shall be as provided in section 10 of this act.

NEW SECTION. **Sec. 23.** A new section is added to chapter 41.56 RCW to read as follows:

Notwithstanding any other provision of this chapter, employees and bargaining representatives of school districts that are dissolved due to financial insolvency shall have resort to collective bargaining, including grievance arbitration and other processes, only to the extent provided by section 10 of this act.

NEW SECTION. **Sec. 24.** A new section is added to chapter 41.59 RCW to read as follows:

Notwithstanding any other provision of this chapter, employees and bargaining representatives of school districts that are dissolved due to financial insolvency shall have resort to collective bargaining, including grievance arbitration and other processes, only to the extent provided by section 10 of this act.

NEW SECTION. **Sec. 25.** A new section is added to chapter 28A.315 RCW to read as follows:

The superintendent of public instruction may adopt rules to implement chapter . . ., Laws of 2012 (this act).

NEW SECTION. **Sec. 26.** This act takes effect September 1, 2012.

Passed by the House March 3, 2012.

Passed by the Senate February 29, 2012.

Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 187

[Engrossed House Bill 2620]
STATE INVESTMENT OF FUNDS IN ACCOUNTS

AN ACT Relating to transferring the investment of funds in certain accounts from the state investment board to the state treasurer; amending RCW 43.33A.010, 28B.108.060, 28B.108.060, 28B.116.060, 28B.116.060, 43.79.495, 77.12.323, 70.121.050, 89.16.020, 41.05.140, 41.45.230, 43.79A.040, 43.84.150, and 2.10.080; reenacting and amending RCW 43.84.092; adding a new section to chapter 43.79A RCW; repealing RCW 41.45.233 and 43.33A.230; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 43.33A.010 and 1981 c 3 s 1 are each amended to read as follows:

Unless otherwise prescribed by law, the state investment board shall exercise all the powers and perform all duties ((~~prescribed by law~~)) with respect to the investment of public trust and retirement funds.

Sec. 2. RCW 28B.108.060 and 2009 c 259 s 2 are each amended to read as follows:

The American Indian scholarship endowment fund is created in the custody of the state treasurer. ((~~The investment of the endowment fund shall be managed by the state investment board.~~)) Funds appropriated by the legislature for the endowment fund must be deposited into the fund.

(1) Moneys received from the higher education coordinating board, private donations, state moneys, and funds received from any other source may be deposited into the endowment fund. Private moneys received as a gift subject to conditions may be deposited into the fund. The investment of private moneys in the fund shall be managed by the state investment board.

(2) At the request of the higher education coordinating board, the state investment board shall release earnings from the ((~~endowment fund~~)) private moneys invested by it to the state treasurer. ((~~The state treasurer shall then release those funds at the request of the higher education coordinating board for scholarships. No appropriation is required for expenditures from the endowment fund.~~))

(3) When ((~~notified by the higher education coordinating board that~~)) a condition attached to a gift of private moneys in the fund has failed, the ((~~state investment board shall release those moneys to the higher education coordinating board. The~~)) higher education coordinating board shall then release the moneys to the donors according to the terms of the conditional gift.

(4) The principal of the endowment fund shall not be invaded. The release of moneys under subsection (3) of this section shall not constitute an invasion of corpus.

(5) The earnings on the fund shall be used solely for the purposes set forth in RCW 28B.108.040, except when the terms of a conditional gift of private moneys in the fund require that a portion of earnings on such moneys be reinvested in the fund. An appropriation is not required for expenditures from the endowment fund.

Sec. 3. RCW 28B.108.060 and 2011 1st sp.s. c 11 s 194 are each amended to read as follows:

The American Indian scholarship endowment fund is created in the custody of the state treasurer. ((~~The investment of the endowment fund shall be managed by the state investment board.~~)) Funds appropriated by the legislature for the endowment fund must be deposited into the fund.

(1) Moneys received from the office, private donations, state moneys, and funds received from any other source may be deposited into the endowment fund. Private moneys received as a gift subject to conditions may be deposited into the fund. The investment of private moneys in the fund shall be managed by the state investment board.

(2) At the request of the office, the state investment board shall release earnings from the ((~~endowment fund~~)) private moneys invested by it to the state treasurer. ((~~The state treasurer shall then release those funds at the request of the office for scholarships. No appropriation is required for expenditures from the endowment fund.~~))

(3) When ((~~notified by the office that~~)) a condition attached to a gift of private moneys in the fund has failed, the ((~~state investment board shall release those moneys to the office. The~~)) office shall then release the moneys to the donors according to the terms of the conditional gift.

(4) The principal of the endowment fund shall not be invaded. The release of moneys under subsection (3) of this section shall not constitute an invasion of corpus.

(5) The earnings on the fund shall be used solely for the purposes set forth in RCW 28B.108.040, except when the terms of a conditional gift of private moneys in the fund require that a portion of earnings on such moneys be reinvested in the fund. An appropriation is not required for expenditures from the endowment fund.

Sec. 4. RCW 28B.116.060 and 2007 c 73 s 3 are each amended to read as follows:

The foster care scholarship endowment fund is created in the custody of the state treasurer. ((~~The investment of the endowment fund shall be managed by the state investment board.~~))

(1) Moneys received from the higher education coordinating board, private donations, state matching moneys, and funds received from any other source may be deposited into the foster care scholarship endowment fund. Private moneys received as a gift subject to conditions may be deposited into the endowment fund if the conditions do not violate state or federal law. The investment of private moneys in the fund shall be managed by the state investment board.

(2) At the request of the higher education coordinating board, the state investment board shall release earnings from the ((~~endowment fund~~)) private moneys invested by it to the state treasurer. ((~~The state treasurer shall then release those funds at the request of the higher education coordinating board for scholarships. No appropriation is required for expenditures from the endowment fund.~~))

(3) The higher education coordinating board may disburse grants to eligible students from the foster care scholarship endowment fund. No appropriation is required for expenditures from the endowment fund.

(4) When notified by court order that a condition attached to a gift of private moneys from the foster care scholarship endowment fund has failed, the higher education coordinating board shall release those moneys to the donors according to the terms of the conditional gift.

(5) The principal of the foster care scholarship endowment fund shall not be invaded. For the purposes of this section, only the first twenty-five thousand dollars deposited into the foster care scholarship endowment fund shall be considered the principal. The release of moneys under subsection (4) of this section shall not constitute an invasion of the corpus.

(6) The foster care scholarship endowment fund shall be used solely for the purposes in this chapter, except when the conditional gift of private moneys in the endowment fund require a portion of the earnings on such moneys be reinvested in the endowment fund.

Sec. 5. RCW 28B.116.060 and 2011 1st sp.s. c 11 s 218 are each amended to read as follows:

The foster care scholarship endowment fund is created in the custody of the state treasurer. ((~~The investment of the endowment fund shall be managed by the state investment board.~~))

(1) Moneys received from the office, private donations, state matching moneys, and funds received from any other source may be deposited into the foster care scholarship endowment fund. Private moneys received as a gift subject to conditions may be deposited into the endowment fund if the conditions do not violate state or federal law. The investment of private moneys in the fund shall be managed by the state investment board.

(2) At the request of the office, the state investment board shall release earnings from the ((~~endowment fund~~)) private moneys invested by it to the state treasurer. ((~~The state treasurer shall then release those funds at the request of the office for scholarships. No appropriation is required for expenditures from the endowment fund.~~))

(3) The office may disburse grants to eligible students from the foster care scholarship endowment fund. No appropriation is required for expenditures from the endowment fund.

(4) When notified by court order that a condition attached to a gift of private moneys from the foster care scholarship endowment fund has failed, the office shall release those moneys to the donors according to the terms of the conditional gift.

(5) The principal of the foster care scholarship endowment fund shall not be invaded. For the purposes of this section, only the first twenty-five thousand dollars deposited into the foster care scholarship endowment fund shall be considered the principal. The release of moneys under subsection (4) of this section shall not constitute an invasion of the corpus.

(6) The foster care scholarship endowment fund shall be used solely for the purposes in this chapter, except when the conditional gift of private moneys in the endowment fund require a portion of the earnings on such moneys be reinvested in the endowment fund.

Sec. 6. RCW 43.79.495 and 2007 c 484 s 2 are each amended to read as follows:

(1) The budget stabilization account is governed by the provisions in Article VII, section 12 and this section.

(2) By June 30th of each fiscal year, the state treasurer shall transfer an amount equal to one percent of the general state revenues for that fiscal year to the budget stabilization account.

(3) ((~~The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment moneys in the budget stabilization account. All investment and operating costs associated with the investment of money shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the account. All investments made by the state investment board shall be made with the exercise of that degree of judgment and care pursuant to RCW 43.33A.140 and the investment policies established by the state investment board. As deemed appropriate by the state investment board, moneys in the account may be commingled for investment with other funds subject to investment by the board.~~

~~(4)~~)) For the purposes of Article VII, section 12, this section, and RCW 82.33.050, the state employment growth forecast shall be based on the total nonfarm payroll employment data series.

Sec. 7. RCW 77.12.323 and 2009 c 333 s 35 are each amended to read as follows:

(1) There is established in the state wildlife account created in RCW 77.12.170 a special wildlife account. Moneys received under RCW 77.12.320 as now or hereafter amended as compensation for wildlife losses shall be deposited in the state treasury to be credited to the special wildlife account.

(2) ((~~The director may advise the state treasurer and the state investment board of a surplus in the special wildlife account above the current needs.~~)) The state ((~~investment board~~)) treasurer may invest and reinvest the surplus((~~, as the commission deems appropriate, in an investment authorized by RCW 43.84.150 or in securities issued by the United States government as defined by RCW 43.84.080 (1) and (4). Income received from the investments shall be deposited to the credit of the special wildlife account~~)) as provided by RCW 43.84.080.

Sec. 8. RCW 70.121.050 and 1987 c 184 s 2 are each amended to read as follows:

On a quarterly basis on and after January 1, 1980, there shall be levied and the department shall collect a charge of five cents per pound on each pound of uranium or thorium compound milled out of the raw ore. All moneys paid to the department from these charges shall be deposited in a special security fund in the treasury of the state of Washington to be known as the "radiation perpetual maintenance fund." This security fund shall be used by the department when a licensee has ceased to operate and the site may still contain, or have associated with the site at which the licensed activity was conducted in spite of full compliance with RCW 70.121.030, radioactive material which will require further maintenance, surveillance, or other care. If, with respect to a licensee, the department determines that the estimated total of these charges will be less than or greater than that required to defray the estimated cost of administration of this responsibility, the department may prescribe such an increased or decreased charge as is considered necessary for this purpose. If, at termination

of the license, the department determines that by the applicable standards and practices then in effect, the charges which have been collected from the licensee and earnings generated therefrom are in excess of the amount required to defray the cost of this responsibility, the department may refund the excess portion to the licensee. If, at termination of the license or cessation of operation, the department determines, by the applicable standards and practices then in effect, that the charges which have been collected from the licensee and earnings generated therefrom are together insufficient to defray the cost of this responsibility, the department may collect the excess portion from the licensee.

((~~Moneys in the radiation perpetual maintenance fund shall be invested by the state investment board in the manner as other state moneys.~~))

Sec. 9. RCW 89.16.020 and 1973 1st ex.s. c 40 s 1 are each amended to read as follows:

For the purpose of carrying out the provisions of this chapter the state reclamation revolving account, heretofore established and hereinafter called the reclamation account, shall consist of all sums appropriated thereto by the legislature; all gifts made to the state therefor and the proceeds of the sale thereof; the proceeds of the sale or redemption of and the interest earned by securities acquired with the moneys thereof; and all reimbursements for moneys advanced for the payment of assessments upon public lands of the state for the improvement thereof. Moneys in the reclamation account may be invested by the state treasurer pursuant to RCW 43.84.080.

Sec. 10. RCW 41.05.140 and 2011 1st sp.s. c 15 s 59 are each amended to read as follows:

(1) Except for property and casualty insurance, the authority may self-fund, self-insure, or enter into other methods of providing insurance coverage for insurance programs under its jurisdiction, including the basic health plan as provided in chapter 70.47 RCW. The authority shall contract for payment of claims or other administrative services for programs under its jurisdiction. If a program does not require the prepayment of reserves, the authority shall establish such reserves within a reasonable period of time for the payment of claims as are normally required for that type of insurance under an insured program. The authority shall endeavor to reimburse basic health plan health care providers under this section at rates similar to the average reimbursement rates offered by the statewide benchmark plan determined through the request for proposal process.

(2) Reserves established by the authority for employee and retiree benefit programs shall be held in a separate ((~~trust fund by~~)) account in the custody of the state treasurer and shall be known as the public employees' and retirees' insurance reserve fund. The state ((~~investment board shall act as the investor for the funds and, except as provided in RCW 43.33A.160 and 43.84.160, one hundred percent of all earnings from these investments shall accrue directly to the public employees' and retirees' insurance reserve fund~~)) treasurer may invest the moneys in the reserve fund pursuant to RCW 43.79A.040.

(3) Any savings realized as a result of a program created for employees and retirees under this section shall not be used to increase benefits unless such use is authorized by statute.

(4) Reserves established by the authority to provide insurance coverage for the basic health plan under chapter 70.47 RCW shall be held in a separate trust account in the custody of the state treasurer and shall be known as the basic health plan self-insurance reserve account. The state ((~~investment board shall act as the investor for the funds as set forth in RCW 43.33A.230 and, except as provided in RCW 43.33A.160 and 43.84.160, one hundred percent of all earnings from these investments shall accrue directly to the basic health plan self-insurance reserve account~~)) treasurer may invest the moneys in the reserve fund pursuant to RCW 43.79A.040.

(5) Any program created under this section shall be subject to the examination requirements of chapter 48.03 RCW as if the program were a domestic insurer. In conducting an examination, the commissioner shall determine the adequacy of the reserves established for the program.

(6) The authority shall keep full and adequate accounts and records of the assets, obligations, transactions, and affairs of any program created under this section.

(7) The authority shall file a quarterly statement of the financial condition, transactions, and affairs of any program created under this section in a form and manner prescribed by the insurance commissioner. The statement shall contain information as required by the commissioner for the type of insurance being offered under the program. A copy of the annual statement shall be filed with the speaker of the house of representatives and the president of the senate.

(8) The provisions of this section do not apply to the administration of chapter 74.09 RCW.

Sec. 11. RCW 41.45.230 and 2009 c 564 s 1808 are each amended to read as follows:

The pension funding stabilization 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 payment of state government employer contributions for members of the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, and the public safety employees' retirement system. ((~~During the 2007-09 fiscal biennium, expenditures from the account may also be used for payment of the retirement and annuity plans for higher education employees and for transfer into the general fund.~~)) The account may not be used to pay for any new benefit or for any benefit increase that takes effect after July 1, 2005. An increase that is provided in accordance with a formula that is in existence on July 1, 2005, is not considered a benefit increase for this purpose. Moneys in the account shall be for the exclusive use of the specified retirement systems and may be invested by the state ((~~investment board~~)) treasurer pursuant to RCW ((~~43.33A.030 and 43.33A.170~~)) 43.84.080. For purposes of RCW ((~~43.135.035~~)) 43.135.034, expenditures from the pension funding stabilization account shall not be considered a state program cost shift from the state general fund to another account. ((~~During the 2007-2009 fiscal biennium, the legislature may transfer from the pension funding stabilization account to the state general fund such amounts as reflect the excess fund balance of the account.~~))

NEW SECTION. **Sec. 12.** A new section is added to chapter 43.79A RCW to read as follows:

The state treasurer may invest the moneys in the Millersylvania park trust fund as authorized by RCW 43.79A.040.

Sec. 13. RCW 43.79A.040 and 2011 1st sp.s. c 37 s 603 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the accessible communities account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the 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 county enhanced 911 excise tax account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C

purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, ((~~and~~)) the reading achievement account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 14. RCW 43.84.092 and 2011 1st sp.s. c 16 s 6, 2011 1st sp.s. c 7 s 22, 2011 c 369 s 6, 2011 c 339 s 1, 2011 c 311 s 9, 2011 c 272 s 3, 2011 c 120 s 3, and 2011 c 83 s 7 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no

appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multiagency permitting team account, 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 pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account,

the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state economic development commission account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving 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, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 15. RCW 43.84.150 and 1998 c 14 s 4 are each amended to read as follows:

((~~Except where otherwise specifically provided by law,~~)) When investment authority over a particular fund or account lies with the state investment board, the board shall have full power to invest, reinvest, manage, contract, or sell or exchange investments acquired. Investments shall be made in accordance with RCW 43.33A.140 and investment policy duly established and published by the state investment board.

Sec. 16. RCW 2.10.080 and 1991 sp.s. c 13 s 114 are each amended to read as follows:

(1) The state treasurer shall be the custodian of all funds and securities of the retirement system. Disbursements from this fund shall be made by the state treasurer upon receipt of duly authorized vouchers.

(2) The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system not needed for immediate use in the same manner and subject to all the provisions of law with respect to the deposit of state funds by such treasurer. All investment income earned by such portion of the retirement system's funds as may be deposited by the state treasurer in pursuance of authority herewith given shall be collected by him or her and placed to the credit of the retirement fund, less the allocation to the ((~~state investment board expense account pursuant to RCW 43.33A.160 and to the~~)) state treasurer's service fund pursuant to RCW 43.08.190.

(3) ((~~The state investment board established by RCW 43.33A.020 has full power to invest or reinvest the funds of this system in those classes of investments authorized by RCW 43.84.150.~~

~~(4)~~)) For the purpose of providing amounts to be used to defray the cost of administration, the judicial retirement board shall ascertain at the beginning of each biennium and request from the legislature an appropriation sufficient to cover estimated expenses for the said biennium.

NEW SECTION. **Sec. 17.** The following acts or parts of acts are each repealed:

(1) RCW 41.45.233 (Pension funding stabilization account—State investment board) and 2006 c 56 s 2; and

(2) RCW 43.33A.230 (Basic health plan self-insurance reserve account—Board duties and powers) and 2000 c 80 s 6.

NEW SECTION. **Sec. 18.** Sections 2 and 4 of this act expire July 1, 2012.

NEW SECTION. **Sec. 19.** Sections 3 and 5 of this act take effect July 1, 2012.

Passed by the House March 6, 2012.
Passed by the Senate March 8, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 188

[Second Substitute Senate Bill 5355]

PUBLIC AGENCIES—SPECIAL MEETINGS

AN ACT Relating to special meetings; and amending RCW 42.30.080.

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

Sec. 1. RCW 42.30.080 and 2005 c 273 s 1 are each amended to read as follows:

(1) A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering written notice personally, by mail, by fax, or by electronic mail to each member of the governing body((~~; and~~)). Written notice shall be deemed waived in the following circumstances:

(a) A member submits a written waiver of notice with the clerk or secretary of the governing body at or prior to the time the meeting convenes. A written waiver may be given by telegram, fax, or electronic mail; or

(b) A member is actually present at the time the meeting convenes.

(2) Notice of a special meeting called under subsection (1) of this section shall be:

(a) Delivered to each local newspaper of general circulation and ((~~to each~~)) local radio or television station ((~~which~~)) that has on file with the governing body a written request to be notified of such special meeting or of all special meetings;

(b) Posted on the agency's web site. An agency is not required to post a special meeting notice on its web site if it (i) does not have a web site; (ii) employs fewer than ten full-time equivalent employees; or (iii) does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the web site; and

(c) Prominently displayed at the main entrance of the agency's principal location and the meeting site if it is not held at the agency's principal location.

Such notice must be delivered ((~~personally, by mail, by fax, or by electronic mail~~)) or posted, as applicable, at least twenty-four hours before the time of such meeting as specified in the notice.

(3) The call and notices required under subsections (1) and (2) of this section shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body. ((~~Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the governing body a written waiver of notice. Such waiver may be given by telegram, by fax, or electronic mail. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.~~))

(4) The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

Passed by the Senate March 8, 2012.

Passed by the House March 6, 2012.

Approved by the Governor March 29, 2012.

Filed in Office of Secretary of State March 29, 2012.

CHAPTER 189

[Engrossed Second Substitute Senate Bill 5539]

MOTION PICTURE COMPETITIVENESS

AN ACT Relating to Washington's motion picture competitiveness; amending RCW 43.365.020, 43.365.030, 82.04.4489, and 43.365.040; and reenacting and amending RCW 43.365.010.

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

Sec. 1. RCW 43.365.010 and 2009 c 565 s 46 are each reenacted and amended to read as follows:

The following definitions apply to this chapter, unless the context clearly requires otherwise.

(1) "Approved motion picture competitiveness program" means a nonprofit organization under the internal revenue code, section 501(c)(6), with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production and assisting and providing services for attracting the film industry, by recommending and awarding financial assistance for costs associated with motion pictures in the state of Washington.

(2) "Contribution" means cash contributions.

(3) "Costs" means actual expenses of production and postproduction expended in Washington state for the production of motion pictures, including but not limited to payments made for salaries, wages, and health insurance and retirement benefits, the rental costs of machinery and equipment and the purchase of services, food, property, lodging, and permits for work conducted in Washington state.

(4) "Department" means the department of commerce.

(5) "Funding assistance" means cash expenditures from an approved motion picture competitiveness program.

(6) "Motion picture" means a recorded audio-visual production intended for distribution to ((~~theaters, DVD, video, or the internet, or television, or one or more episodes of a single television series, television pilots or presentations, or a commercial. "Motion picture" does not mean production of a television commercial of an amount less than two hundred fifty thousand dollars in actual total investment or one or more segments of a newscast or sporting event~~)) the public for exhibition in public and/or private settings by means of any and all delivery systems and/or delivery platforms now or hereafter known, including without limitation, screenings in motion picture theaters, broadcasts and cablecast transmissions for viewing on televisions, computer screens, and other audio-visual receivers, viewings on screens by means of digital video disc (DVD) players, video on demand (VOD) services, and digital video recording (DVR) services, direct internet transmission, and viewing on digital computer-based systems which respond to the users' actions (interactive media).

(7) "Person" has the same meaning as provided in RCW 82.04.030.

Sec. 2. RCW 43.365.020 and 2009 c 100 s 1 are each amended to read as follows:

(1) The department ((~~shall~~)) must adopt criteria for ((~~an~~)) the approved motion picture competitiveness program with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and

international market of motion picture production. Rules adopted by the department shall allow the program, within the established criteria, to provide funding assistance only when it captures economic opportunities for Washington's communities and businesses and shall only be provided under a contractual arrangement with a private entity. In establishing the criteria, the department shall consider:

(a) The additional income and tax revenue to be retained in the state for general purposes;

(b) The creation and retention of family wage jobs which provide health insurance and payments into a retirement plan;

(c) The impact of motion picture projects to maximize in-state labor and the use of in-state film production and film postproduction companies;

(d) The impact upon the local economies and the state economy as a whole, including multiplier effects;

(e) The intangible impact on the state and local communities that comes with motion picture projects;

(f) The regional, national, and international competitiveness of the motion picture filming industry;

(g) The revitalization of the state as a premier venue for motion picture production and national television commercial campaigns;

(h) Partnerships with the private sector to bolster film production in the state and serve as an educational and cultural purpose for its citizens;

(i) The vitality of the state's motion picture industry as a necessary and critical factor in promoting the state as a premier tourist and cultural destination;

(j) Giving preference to additional seasons of television series that have previously qualified;

(k) Other factors the department may deem appropriate for the implementation of this chapter.

(2) The board of directors created under RCW 43.365.030 shall create and administer an account for carrying out the purposes of subsection (3) of this section.

(3) Money received by ((~~an~~)) the approved motion picture competitiveness program shall be used only for:

(a) Health insurance and payments into a retirement plan, and other costs associated with film production; and

(b) ((~~a tax credit marketer to market the tax credits authorized under RCW 82.04.4489; and (c)~~)) Staff and related expenses to maintain the program's proper administration and operation.

(4) Except as provided otherwise in subsection (7) of this section, maximum funding assistance from ((~~an~~)) the approved motion picture competitiveness program is limited to an amount up to thirty percent of the total actual investment in the state of at least:

(a) Five hundred thousand dollars for a single ((~~feature film~~)) motion picture produced in Washington state; or

(b) ((~~Three hundred thousand dollars per television episode produced in Washington state; or~~

~~(c)~~)) One hundred fifty thousand dollars for ((~~an infomercial or~~)) a television commercial associated with a national or regional advertisement campaign produced in Washington state.

(5) Except as provided otherwise in subsection (7) of this section, maximum funding assistance from the approved motion picture competitiveness program is limited to an amount up to thirty-five percent of the total actual investment of at least three hundred thousand dollars per episode produced in Washington state. A minimum of six episodes of a series must be produced to qualify under this subsection. A maximum of up to thirty percent of the total actual investment from the approved motion picture competitiveness program may be awarded to an episodic series of less than six episodes.

(6) With respect to costs associated with nonstate labor for motion pictures and episodic services, funding assistance from the approved motion picture competitiveness program is limited to an amount up to fifteen percent of the total actual investment used for costs associated with nonstate labor. To qualify under this subsection, the production must have a labor force of at least eighty-five percent of Washington residents. The board may establish additional criteria to maximize the use of in-state labor.

(7)(a) The approved motion picture competitiveness program may allocate an annual aggregate of no more than ten percent of the qualifying contributions by the program under RCW 82.04.4489 to provide funding support for filmmakers who are Washington residents, new forms of production, and emerging technologies.

(i) Up to thirty percent of the actual investment for a motion picture with an actual investment lower than that of motion pictures under subsection (4)(a) of this section; or

(ii) Up to thirty percent of the actual investment of an interactive motion picture intended for multiplatform exhibition and distribution.

(b) Subsections (4) and (5) of this section do not apply to this subsection.

(8) Funding assistance approval must be determined by the approved motion picture competitiveness program within a maximum of thirty calendar days from when the application is received, if the application is submitted after August 15, 2006.

Sec. 3. RCW 43.365.030 and 2008 c 85 s 2 are each amended to read as follows:

(1) A Washington motion picture competitiveness program under this chapter ((~~shall~~)) must be administered by a board of directors appointed by the governor, and the appointments ((~~shall~~)) must be made within sixty days following enactment. The department, after consulting with the board, ((~~shall~~)) must adopt rules for the standards that shall be used to evaluate the applications for funding assistance prior to June 30, 2006.

(2) The board ((~~shall~~)) must evaluate and award financial assistance to motion picture projects under rules set forth under RCW 43.365.020.

(3) The board ((~~shall~~)) must consist of the following members:

(a) One member representing the Washington motion picture production industry;

(b) One member representing the Washington motion picture postproduction industry;

(c) One member representing the Washington interactive media or emerging motion picture industry;

(d) Two members representing labor unions affiliated with Washington motion picture production;

((~~(d)~~)) (e) One member representing the Washington visitors and convention bureaus;

((~~(e)~~)) (f) One member representing the Washington tourism industry;

((~~(f)~~)) (g) One member representing the Washington restaurant, hotel, and airline industry; and

((~~(g)~~)) (h) A chairperson, chosen at large, ((~~shall~~)) must serve at the pleasure of the governor.

(4) The term of the board members, other than the chair, is four years, except as provided in subsection (5) of this section.

(5) The governor ((~~shall~~)) must appoint board members in 2010 to two-year or four-year staggered terms. Once the initial two-year or four-year terms expire, all subsequent terms ((~~shall be~~)) are for four years. The terms of the initial board members ((~~shall be~~)) are as follows:

(a) The board positions in subsection (3)(b), (((~~(d), and (f)~~))) (e), and (g) of this section, and one position from subsection (3)(((~~(c)~~))) (d) of this section ((~~shall~~)) must be appointed to two-year terms; and

(b) The remaining board positions in subsection (3) of this section shall be appointed to four-year terms.

(6) A board member appointed by the governor may be removed by the governor for cause under RCW 43.06.070 and 43.06.080.

(7) Five members of the board constitute a quorum.

(8) The board ((~~shall~~)) must elect a treasurer and secretary annually, and other officers as the board members determine necessary, and may adopt bylaws or rules for its own government.

(9) The board ((~~shall~~)) must make any information available at the request of the department to administer this chapter.

(10) Contributions received by a board ((~~shall~~)) must be deposited into the account described in RCW 43.365.020(2).

Sec. 4. RCW 82.04.4489 and 2008 c 85 s 3 are each amended to read as follows:

(1) Subject to the limitations in this section, a credit is allowed against the tax imposed under this chapter for contributions made by a person to a Washington motion picture competitiveness program.

(2) The person must make the contribution before claiming a credit authorized under this section. Credits earned under this section may be claimed against taxes due for the calendar year in which the contribution is made. The amount of credit claimed for a reporting period ((~~shall~~)) may not exceed the tax otherwise due under this chapter for that reporting period. No person may claim more than one million dollars of credit in any calendar year, including credit carried over from a previous calendar year. No refunds may be granted for any unused credits.

(3) The maximum credit that may be earned for each calendar year under this section for a person is limited to the lesser of one million dollars or an amount equal to one hundred percent of the contributions made by the person to a program during the calendar year.

(4) Except as provided under subsection (5) of this section, a tax credit claimed under this section may not be carried over to another year.

(5) Any amount of tax credit otherwise allowable under this section not claimed by the person in any calendar year may be carried over and claimed

against the person's tax liability for the next succeeding calendar year. Any credit remaining unused in the next succeeding calendar year may be carried forward and claimed against the person's tax liability for the second succeeding calendar year; and any credit not used in that second succeeding calendar year may be carried over and claimed against the person's tax liability for the third succeeding calendar year, but may not be carried over for any calendar year thereafter.

(6) Credits are available on a first in-time basis. The department ((~~shall~~)) must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section during any calendar year to exceed three million five hundred thousand dollars. If this limitation is reached, the department ((~~shall~~)) must notify all Washington motion picture competitiveness programs that the annual statewide limit has been met. In addition, the department ((~~shall~~)) must provide written notice to any person who has claimed tax credits in excess of the ((~~three million five hundred thousand dollar~~)) limitation in this subsection. The notice ((~~shall~~)) must indicate the amount of tax due and ((~~shall~~)) provide that the tax be paid within thirty days from the date of ((~~such~~)) the notice. The department ((~~shall~~)) may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(7) To claim a credit under this section, a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format under this section is not filed until received by the department in an electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(8) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section.

(9) A Washington motion picture competitiveness program ((~~shall~~)) must provide to the department, upon request, such information needed to verify eligibility for credit under this section, including information regarding contributions received by the program.

(10) The department ((~~shall~~)) may not allow any credit under this section before July 1, 2006.

(11) For the purposes of this section, "Washington motion picture competitiveness program" or "program" means an organization established pursuant to chapter 43.365 RCW.

(12) No credit may be earned for contributions made on or after July 1, ((~~2011~~)) 2017.

Sec. 5. RCW 43.365.040 and 2009 c 518 s 14 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 incentives are used.

(2) Each motion picture production receiving funding assistance under RCW 43.365.020 ((~~shall~~)) must 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 funding assistance under RCW 43.365.020 is taken. The department may extend the due date for timely filing of annual surveys under this section if failure to file was the result of circumstances beyond the control of the motion picture production receiving the funding assistance.

(3) ((~~The survey shall include~~)) The Washington motion picture competitiveness program established in RCW 43.365.030, in collaboration with the department and the department of revenue, and in consultation with the joint legislative audit and review committee, must develop a survey form and instructions that accompany the survey form by November 1, 2012. The instructions must provide sufficient detail to ensure consistent reporting. The survey must be designed to acquire data to allow the state to better measure the effectiveness of the program and to provide transparency of the motion picture competitiveness program. The survey must include:

(a) The total amount of taxes paid;

(b) The amount of taxes paid classified by type, which may include, but is not limited to, sales taxes, use taxes, business and occupation taxes, unemployment insurance taxes, and workers' compensation premiums;

(c) The amount of funding assistance received((~~. The survey shall also include~~)); and

(d) The following information for employment positions in Washington by the motion picture production receiving funding assistance, including indirect employment by contractors or other affiliates:

(((~~(a)~~))) (i) 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)~~))) (ii) The average number of hours worked by employed individuals;

(iii) The average base pay of individuals employed by motion picture companies, including contributions to health care benefits and retirement plans;

(iv) The number of employment positions that have employer-provided medical, dental, and retirement benefits((~~, by each of the wage bands~~)); and

(v) The number of employment positions filled by Washington state residents, and residency information for employment positions filled by people from other locations.

(4) The department may request additional information necessary to measure the results of the funding assistance program, to be submitted at the same time as the survey.

(5) If a person fails to submit an annual survey under subsection (2) of this section by the due date of the report or any extension the department ((~~shall~~)) must declare the amount of funding assistance for the previous calendar year to be immediately due and payable. The department ((~~shall~~)) must assess interest, but not penalties, on the amounts due under this section. The interest ((~~shall be~~)) is assessed at the rate provided for delinquent taxes under chapter 82.32 RCW,

retroactively to the date the funding assistance was received, and ((~~shall~~)) accrues until the funding assistance is repaid.

(6) The department ((~~shall~~)) must use the information from this section to prepare summary descriptive statistics. The department ((~~shall~~)) must report these statistics to the legislature each even-numbered year by September 1st. The department ((~~shall~~)) must provide the complete annual surveys to the joint legislative audit and review committee.

(7) The motion picture competitiveness program must monitor the survey information submitted by production companies for completeness and accuracy.

Passed by the Senate February 14, 2012.
Passed by the House March 8, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 190

[Engrossed Senate Bill 5661]
DERELICT FISHING GEAR

AN ACT Relating to derelict fishing gear; amending RCW 77.12.870; creating new sections; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that derelict fishing gear poses a serious threat to human life, the health of the state's marine and freshwater ecosystems, and numerous species of birds, fish, marine mammals, and shellfish. Derelict fishing gear entraps and kills for decades and threatens endangered species, including federal endangered species act-listed salmon, steelhead, Puget Sound rockfish, green sturgeon, and marbled murrelet. In Puget Sound, estimates from the Northwest straits initiative indicate that derelict commercial fishing nets were killing approximately one thousand two hundred marine mammals, twenty-one thousand birds, and sixty-seven thousand fish per year.

(2) The legislature further finds that while significant progress has been made to remove historic accumulations of lost and abandoned commercial fishing nets in Puget Sound, reforms are needed to stem the ongoing accumulation of commercial fishing nets and commercial and recreational shellfish pots in both marine and freshwater environments. While the Northwest straits initiative received a one-time federal grant of over four million five hundred thousand dollars to remove high priority derelict fishing nets from Puget Sound, no long-term source of funding is currently available for the continued removal of derelict fishing nets or the removal of an estimated twelve thousand derelict shellfish pots. Insufficient funding and information is available to confirm and quantify the likely presence of derelict fishing gear in other state waters. These and other factors increase the need for a mandatory reporting system to quantify ongoing accumulations of lost or abandoned commercial fishing nets and recreational or commercial shellfish pots.

(3) The legislature further finds that the department of fish and wildlife is working cooperatively with the department of natural resources and the Northwest straits initiative to maintain a statewide database of derelict fishing

gear. However, despite recent known instances of commercial fishing net losses, only two reports of lost commercial fishing nets have been made by fishers to the department of fish and wildlife database under the current voluntary reporting system since its inception in 2003.

(4) The legislature further finds that instituting a mandatory reporting requirement for persons who lose or abandon commercial fishing nets will help prevent continued accumulations, lead to prompt removal, and better allow state and federal authorities to estimate the impacts. The department of fish and wildlife is also encouraged to provide recreational and commercial shellfish pot users with the opportunity to report lost shellfish pots through existing catch reporting mechanisms. The department of fish and wildlife should rely upon existing authorities to formulate any rules necessary to ensure compliance with mandatory reporting requirements for derelict commercial fishing nets and encourage maximum participation in reporting lost shellfish pots.

Sec. 2. RCW 77.12.870 and 2010 c 193 s 8 are each amended to read as follows:

(1) The department, in partnership with the Northwest straits commission, the department of natural resources, and other interested parties, must create and ensure the maintenance of a database of known derelict fishing gear and shellfish pots, including the type of gear and its location.

(2) A person who loses or abandons commercial net fishing gear ((~~or shellfish pots~~)) within the waters of the state is ((~~encouraged~~)) required to report the location of the loss and the type of gear lost to the department within ((~~forty-eight~~)) twenty-four hours of the loss.

(3) A person who loses or abandons shellfish pots within the waters of the state is encouraged to report the location of the loss and the type of gear lost to the department.

NEW SECTION. **Sec. 3.** (1) The department of fish and wildlife shall, by no later than December 31, 2012, work with all interested Indian tribes to develop a program that will assist coordination and communication among the department of fish and wildlife and the various cooperating Indian tribes to record, consistent with RCW 77.12.870, the location of lost or abandoned fishing nets that originated in a tribal fishery.

(2) This section expires on July 31, 2013.

Passed by the Senate March 3, 2012.
Passed by the House February 28, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 191

[Substitute Senate Bill 5995]

URBAN GROWTH AREA BOUNDARIES—INDUSTRIAL LAND

AN ACT Relating to urban growth area boundary modifications for industrial land by certain counties; reenacting and amending RCW 36.70A.130; adding a new section to chapter 36.70A RCW; and providing an expiration date.

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

Sec. 1. RCW 36.70A.130 and 2011 c 360 s 16 and 2011 c 353 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 deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

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

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

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year, except that, until December 31, 2015, the program shall provide for consideration of amendments of an urban growth area in accordance with section 2 of this act once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

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

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

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

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

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsection (5) of this section, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

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

(4) Except as provided in subsection (6) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

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

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

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

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

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to

review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2015, and every eight years thereafter, for King, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2016, and every eight years thereafter, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2017, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2018, and every eight years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

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

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

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

(d) A county or city that is subject to a deadline established in subsection (4)(d) of this section and that meets the criteria established in ((~~subsection (6)~~))(b) or (c) of this ((~~section~~)) subsection may comply with the requirements of subsection (4)(d) of this section at any time within the thirty-six months after the extension provided in ((~~subsection (6)~~))(b) or (c) of this ((~~section~~)) subsection.

(e) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(f) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the

requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

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

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW:

(i) Complying with the deadlines in this section;

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or

(iii) Complying with the extension provisions of subsection (6)(b), (c), or (d) of this section.

(b) A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW 36.70A.710(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW 36.70A.725;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW 36.70A.720;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning ten years from the date of receipt of funding, a county that has made the election under RCW 36.70A.710(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section.

This subsection (8)(c) does not apply to a participating watershed that has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW to read as follows:

(1) The legislative authority of a city planning under RCW 36.70A.040 may request, as part of the county's annual comprehensive plan amendment process, that the applicable county legislative authority amend the urban growth area within which the city is located. A request must meet the county's application deadline for that year's comprehensive plan amendment process. A determination to honor, modify, or reject a request under this section must be issued by the county, as part of the county's annual comprehensive plan amendment process.

(2) Urban growth area amendment requests under this subsection:

(a) May only occur in counties located east of the crest of the Cascade mountain range that have more than one hundred thousand and fewer than two hundred thousand residents;

(b) Must be for the purpose of increasing the amount of territory within the amended urban growth area that is zoned for industrial purposes and the additional land is needed to meet the city's and county's documented needs for additional industrial land to serve their planned population growth;

(c) May not increase the amount of territory within the amended urban growth area by an amount exceeding seven percent of the total area within the requesting city. Land area determinations under this subsection (2)(c) must be made on a per occurrence, noncumulative basis;

(d) Must be preceded by a completed development proposal and phased master plan for the area to which the amendment applies and a capital facilities plan with identified funding sources to provide the public facilities and services needed to serve the area; and

(e) Are null and void if the applicable development proposal has not been wholly or partially implemented within five years of the amendment, or if the area to which the amendment applies has not been annexed within five years of the amendment.

(3) Nothing in this section limits or otherwise modifies the authority of counties and cities to enter into interlocal agreements under chapter 39.34 RCW for planning costs incurred by a county in accordance with a request under this section.

(4) This section expires December 31, 2015.

Passed by the Senate March 3, 2012.
Passed by the House February 27, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 192

[Substitute Senate Bill 6105]

PRESCRIPTION MONITORING PROGRAM

AN ACT Relating to the prescription monitoring program; and amending RCW 70.225.020.

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

Sec. 1. RCW 70.225.020 and 2007 c 259 s 43 are each amended to read as follows:

(1) When sufficient funding is provided for such purpose through federal or private grants, or is appropriated by the legislature, the department shall establish and maintain a prescription monitoring program to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances and any additional drugs identified by the board of pharmacy as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state. The program shall be designed to improve health care quality and effectiveness by reducing abuse of controlled substances, reducing duplicative prescribing and overprescribing of controlled substances, and improving controlled substance prescribing practices with the intent of eventually establishing an electronic database available in real time to dispensers and prescribers of ((~~control [controlled]~~)) controlled substances. As much as possible, the department should establish a common database with other states.

(2) Except as provided in subsection (4) of this section, each dispenser shall submit to the department by electronic means information regarding each prescription dispensed for a drug included under subsection (1) of this section. Drug prescriptions for more than ((~~immediate~~)) one day use should be reported. The information submitted for each prescription shall include, but not be limited to:

(a) Patient identifier;

(b) Drug dispensed;

(c) Date of dispensing;

(d) Quantity dispensed;

(e) Prescriber; and

(f) Dispenser.

(3) Each dispenser shall submit the information in accordance with transmission methods established by the department.

(4) The data submission requirements of subsections (1) through (3) of this section do not apply to:

(a) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW; or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses; ((~~or~~))

(b) Pharmacies operated by the department of corrections for the purpose of providing medications to offenders in department of corrections institutions who are receiving pharmaceutical services from a department of corrections pharmacy, except that the department of corrections must submit data related to each offender's current prescriptions for controlled substances upon the offender's release from a department of corrections institution; or

(c) Veterinarians licensed under chapter 18.92 RCW. The department, in collaboration with the veterinary board of governors, shall establish alternative data reporting requirements for veterinarians that allow veterinarians to report:

(i) By either electronic or nonelectronic methods;

(ii) Only those data elements that are relevant to veterinary practices and necessary to accomplish the public protection goals of this chapter; and

(iii) No more frequently than once every three months and no less frequently than once every six months.

(5) The department shall seek federal grants to support the activities described in chapter 259, Laws of 2007. The department may not require a practitioner or a pharmacist to pay a fee or tax specifically dedicated to the operation of the system.

Passed by the Senate March 5, 2012.
Passed by the House February 27, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 193

[Second Substitute Senate Bill 6140]

LOCAL ECONOMIC DEVELOPMENT FINANCING

AN ACT Relating to local economic development financing; adding a new chapter to Title 39 RCW; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that the issuance of taxable nonrecourse revenue bonds by the Washington economic development finance authority has provided a number of Washington firms with the financing necessary to grow and create jobs. The legislature further finds that municipal authority to issue taxable nonrecourse revenue bonds does not exist and that authorizing the local issuance of taxable bonds for economic development purposes will increase local capacity to strengthen businesses and create jobs.

(2) It is the purpose of this chapter to grant new authority for cities, counties, and port districts that created public corporations under chapter 39.84 RCW prior to 2012, in order to build on the expertise with tax-exempt nonrecourse revenue bond financing developed by these municipalities. Therefore, these municipalities are permitted to create local economic development finance authorities to act as a financial conduit that, without using state or local government funds or lending the credit of the state or local governments, can issue taxable and nontaxable nonrecourse revenue bonds, and participate in federal, state, and local economic development programs to help facilitate access to needed capital by Washington businesses. It is also a primary purpose of this chapter to encourage the development of local innovative approaches to the problem of unmet capital needs. This chapter must be construed liberally to carry out its purposes and objectives.

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

(1) "Authority" means a local economic development finance authority created under this chapter. An authority is a public body within the meaning of RCW 39.53.010.

(2) "Board of directors" means the board of directors of an authority.

(3) "Bonds" means any bonds, notes, debentures, interim certificates, conditional sales or lease financing agreements, lines of credit, forward purchase agreements, investment agreements, and other banking or financial

arrangements, guaranties, or other obligations issued by or entered into by the authority. Such bonds may be issued on either a tax-exempt or taxable basis.

(4) "Borrower" means one or more public or private persons or entities acting as lessee, purchaser, mortgagor, or borrower who has obtained or is seeking to obtain financing either from an authority or from an eligible banking organization that has obtained or is seeking to obtain funds from the authority to finance a project. A borrower may include a party who transfers the right of use and occupancy to another party by lease, sublease, or otherwise, or a party who is seeking or has obtained a financial guaranty from the authority.

(5) "Economic development activities" means activities related to: Manufacturing, processing, the commercialization of research, production, assembly, tooling, warehousing, exporting products made in Washington or services provided by Washington firms, airports, docks and wharves, mass commuting facilities, high-speed intercity rail facilities, public broadcasting, pollution control, solid waste disposal, federally qualified hazardous waste facilities, energy generating, conservation, or transmission facilities, sports facilities, industrial parks, and activities conducted within a federally designated enterprise or empowerment zone or geographic area of similar nature.

(6) "Eligible banking organization" means any organization subject to regulation by the director of the department of financial institutions, any national bank, federal savings and loan association, and federal credit union located within this state.

(7) "Eligible person" means an individual, partnership, corporation, or joint venture carrying on business, or proposing to carry on business, within the state and seeking financial assistance under this act.

(8) "Financial assistance" means the infusion of capital to persons for use in the development and exploitation of specific inventions and products.

(9) "Financing agreements" means, and includes without limitation, a contractual arrangement with an eligible person whereby an authority obtains rights from or in an invention or product or proceeds from an invention or product in exchange for the granting of financial and other assistance to the person.

(10) "Financing document" means an instrument executed by an authority and one or more persons or entities pertaining to the issuance of or security for bonds, or the application of the proceeds of bonds or other funds of, or payable to, the authority. A financing document may include, but need not be limited to, a lease, installment sale agreement, conditional sale agreement, mortgage, loan agreement, trust agreement or indenture, security agreement, letter or line of credit, reimbursement agreement, insurance policy, guaranty agreement, or currency or interest rate swap agreement. A financing document also may be an agreement between the authority and an eligible banking organization which has agreed to make a loan to a borrower.

(11) "Investment grade credit rating" means a rating of at least BBB- by standard & poor's, Baa3 by moody's investors service, or BBB-by fitch.

(12) "Municipality" means a city, town, county, or port district of this state.

(13) "Ordinance" means any appropriate method of taking official action or adopting a legislative decision by any municipality, whether known as a resolution, ordinance, or otherwise.

(14) "Plan" means the general plan of economic development finance objectives developed and adopted by the authority, and updated from time to time, as required under RCW 43.163.090.

(15) "Product" means a product, device, technique, or process that is or may be exploitable commercially. "Product" does not refer to pure research, but does apply to products, devices, techniques, or processes that have advanced beyond the theoretic stage and are readily capable of being, or have been, reduced to practice.

(16) "Project costs" means costs of:

(a) Acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of land, rights to land, buildings, structures, docks, wharves, fixtures, machinery, equipment, excavations, paving, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities, and any other real or personal property included in an economic development activity;

(b) Architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of an activity included under subsection (5) of this section, including costs of studies assessing the feasibility of an economic development activity;

(c) Finance costs, including the costs of credit enhancement and discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any financing document;

(d) Start-up costs, working capital, capitalized research and development costs, capitalized interest during construction and during the eighteen months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves;

(e) The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and

(f) Other costs incidental to any of the costs listed in this subsection.

NEW SECTION. **Sec. 3.** (1) A municipality that formed a public corporation under chapter 39.84 RCW prior to January 1, 2012, may, if that public corporation is still in existence, enact an ordinance creating an economic development finance authority for the purposes authorized in this chapter. The ordinance creating the authority must approve a charter for the authority containing such provisions as are authorized by and not in conflict with this chapter. Any charter issued under this chapter must contain in substance the limitations set forth in section 4 of this act. In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority is conclusively presumed to be established and authorized to transact business and exercise its powers under this chapter upon proof of the adoption of the ordinance creating the authority by the governing body. A copy of the ordinance duly certified by the clerk of the governing body of the municipality is admissible in evidence in any suit, action, or proceeding.

(2) An authority created by a municipality pursuant to this chapter may be dissolved by the municipality if: (a) The authority has no property to administer, other than funds or property, if any, to be paid or transferred to the municipality by which it was established; and (b) all the authority's outstanding obligations

have been satisfied. Such a dissolution must be accomplished by the governing body of the municipality adopting an ordinance providing for the dissolution.

(3) The creating municipality may, at its discretion and at any time, alter or change the structure, organizational programs, or activities of an authority, including termination of the authority if contracts entered into by the authority are not impaired. Any net earnings of an authority, beyond those necessary for retirement of indebtedness incurred by it, do not inure to the benefit of any person other than the creating municipality. Upon dissolution of an authority, title to all property owned by the authority vests in the municipality.

(4) The ordinance creating an authority must include provisions establishing a board of directors to govern the affairs of the authority, what constitutes a quorum of the board of directors, and how the authority must conduct its affairs.

(5) For a period of ten years after any financing through an authority, it is illegal for a director, officer, agent, or employee of an authority to have, directly or indirectly, any financial interest in any property to be included in or any contract for property, services, or materials to be furnished or used in connection with any economic development activity financed through the authority. Violation of any provision of this section is a gross misdemeanor.

(6) The finances of any authority are subject to examination by the state auditor's office pursuant to RCW 43.09.260.

NEW SECTION. **Sec. 4.** (1) No municipality may give or lend any money or property in aid of an authority. The municipality that creates an authority must annually review any financial statements of the authority and at all times must have access to the books and records of the authority. No authority may issue revenue obligations under this chapter except upon the approval of both the municipality under the auspices of which it was created and the county, city, or town within whose planning jurisdiction the economic development activity to be financed lies. Upon receiving approval from these jurisdictions, an authority must, before bonds may be issued, obtain one of the following:

(a) A letter of credit supporting the creditworthiness of the borrower from a bank with an investment grade credit rating;

(b) Confirmation that the borrower has arranged for private placement of the bonds with an institutional investor; or

(c) Confirmation that the borrower has an investment grade credit rating of their own.

(2) An authority established under the terms of this chapter constitutes an authority and an instrumentality (within the meaning of those terms in the regulations of the United States treasury and the rulings of the internal revenue service prescribed pursuant to 26 U.S.C. Sec. 103 of the federal internal revenue code of 1986, as amended) may act on behalf of the municipality under whose auspices it is created for the specific public purposes authorized by this chapter. The authority is not a municipal corporation within the meaning of the state Constitution and the laws of the state, or a political subdivision within the meaning of the state Constitution and the laws of the state, including without limitation, Article VIII, section 7 of the Washington state Constitution. A municipality may not delegate to an authority any of the municipality's attributes of sovereignty including, without limitation, the power to tax, the power of eminent domain, and the police power.

NEW SECTION. **Sec. 5.** (1) An authority established pursuant to this chapter may develop and conduct a program or programs to provide nonrecourse revenue bond financing for the project costs for economic development activities.

(2) An authority is authorized to participate fully in federal and other governmental economic development finance programs and to take such actions as are necessary and consistent with this chapter to secure the benefits of those programs and to meet their requirements.

(3) An authority may develop and conduct a program that will stimulate and encourage the development of new products within Washington state by the infusion of financial aid for invention and innovation in situations in which the financial aid would not otherwise be reasonably available from commercial sources. The authority is authorized to provide nonrecourse revenue bond financing for this program.

(a) For the purposes of this program, the authority has the following powers and duties:

(i) To enter into financing agreements with eligible persons doing business in Washington state, upon terms and on conditions consistent with the purposes of this chapter, for the advancement of financial and other assistance to the persons for the development of specific products, procedures, and techniques, to be developed and produced in this state, and to condition the agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues remain in this state and accrue to it;

(ii) Own, possess, and take license in patents, copyrights, and proprietary processes and negotiate and enter into contracts and establish charges for the use of the patents, copyrights, and proprietary processes when the patents and licenses for products result from assistance provided by the authority;

(iii) Negotiate royalty payments to the authority on patents and licenses for products arising as a result of assistance provided by the authority;

(iv) Negotiate and enter into other types of contracts with eligible persons that assure that public benefits will result from the provision of services by the authority; provided that the contracts are consistent with the state Constitution;

(v) Encourage and provide technical assistance to eligible persons in the process of developing new products;

(vi) Refer eligible persons to researchers or laboratories for the purpose of testing and evaluating new products, processes, or innovations; and

(vii) To the extent permitted under its contract with eligible persons, to consent to a termination, modification, forgiveness, or other change of a term of a contractual right, payment, royalty, contract, or agreement of any kind to which the authority is a party.

(b) Eligible persons seeking financial and other assistance under this program must forward an application, together with an application fee prescribed by rule, to the authority. An investigation and report concerning the advisability of approving an application for assistance must be completed by the staff of the authority. The investigation and report may include, but is not limited to, facts about the company under consideration as its history, wage standards, job opportunities, stability of employment, past and present financial condition and structure, pro forma income statements, present and future markets and prospects, integrity of management as well as the feasibility of the

proposed product and invention to be granted financial assistance, including the state of development of the product as well as the likelihood of its commercial feasibility. After receipt and consideration of the report set out in this subsection and after other action as is deemed appropriate, the application must be approved or denied by the authority. The applicant must be promptly notified of action by the authority.

(4) An authority may receive no appropriation of state funds. The department of commerce and the Washington economic development finance authority may assist a local economic development finance authority in organizing itself and in designing programs.

(5) An authority may use any funds legally available to it for any purpose specifically authorized by this chapter, or for otherwise improving economic development by assisting businesses and farm enterprises that do not have access to capital at terms and rates comparable to large corporations due to the location of the business, the size of the business, the lack of financial expertise, or other appropriate reasons.

(6) An authority must coordinate its activities with those, including bond issuance activities, of the creating municipality and the public corporation created under chapter 39.84 RCW by the creating municipality.

NEW SECTION. **Sec. 6.** (1) An authority established pursuant to this chapter must adopt general operating procedures for the authority. The authority must also adopt operating procedures for individual programs as they are developed for obtaining funds and for providing funds to borrowers. These operating procedures must be adopted by resolution prior to the authority operating the applicable programs.

(2) The operating procedures must include, but are not limited to:

(a) Appropriate standards for securing loans and other financing the authority provides to borrowers, such as guarantees or collateral; and

(b) Strict standards for providing financing to borrowers, such as:

(i) The borrower is a responsible party with a high probability of being able to repay the financing provided by the authority;

(ii) The financing is reasonably expected to benefit the creating municipality by enabling a borrower to increase or maintain jobs or capital in the municipality;

(iii) The borrowers with the greatest needs or that provide the most public benefit are given higher priority by the authority; and

(iv) The financing is consistent with any plan adopted by the authority under the provisions of section 7 of this act.

NEW SECTION. **Sec. 7.** (1) Any authority established pursuant to this chapter must adopt a general plan of economic development finance objectives to be implemented by the authority during the period of the plan. The authority may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the authority must consider and set objectives for:

(a) Employment generation associated with the authority's programs;

(b) The application of funds to economic sectors and economic development activity evidencing need for improved access to capital markets and funding resources;

(c) Eligibility criteria for participants in authority programs;

(d) The use of funds and resources available from or through federal, state, local, and private sources and programs;

(e) New programs which serve a targeted need for financing assistance within the purposes of this chapter; and

(f) Opportunities to improve capital access as evidenced by programs existent in other localities or as they are made possible by results of private capital market circumstances.

(2) Upon adoption of the general plan the authority must conduct its programs in observance of the objectives established in the plan. The authority may periodically update the plan as determined necessary by the authority.

NEW SECTION. **Sec. 8.** In addition to carrying out the economic development finance activities and programs specifically authorized in this chapter, an authority may:

(1) Maintain an office or offices;

(2) Sue and be sued in its own name, and plead and be impleaded;

(3) Engage consultants, agents, attorneys, and advisers, contract with federal, state, and local governmental entities for services, and hire such employees, agents, and other personnel as the authority deems necessary, useful, or convenient to accomplish its purposes;

(4) Make and execute all manner of contracts, agreements and instruments, and financing documents with public and private parties as the authority deems necessary, useful, or convenient to accomplish its purposes;

(5) Acquire and hold real or personal property, or any interest therein, in the name of the authority, and to sell, assign, lease, encumber, mortgage, or otherwise dispose of the same in such manner as the authority deems necessary, useful, or convenient to accomplish its purposes;

(6) Open and maintain accounts in qualified public depositaries and otherwise provide for the investment of any funds not required for immediate disbursement, and provide for the selection of investments;

(7) Appear in its own behalf before boards, commissions, departments, or agencies of federal, state, or local government;

(8) Procure such insurance in such amounts and from such insurers as the authority deems desirable including, but not limited to, insurance against any loss or damage to its property or other assets, public liability insurance for injuries to persons or property, and directors and officers liability insurance;

(9) Apply for and accept subventions, grants, loans, advances, and contributions from any source of money, property, labor, or other things of value, to be held, used, and applied as the authority deems necessary, useful, or convenient to accomplish its purposes;

(10) Establish guidelines for the participation by eligible banking organizations in programs conducted by the authority under this chapter;

(11) Act as an agent, by agreement, for federal, state, or local governmental entities to carry out the programs authorized in this chapter;

(12) Establish, revise, and collect such fees and charges as the authority deems necessary, useful, or convenient to accomplish its purposes;

(13) Make such expenditures as are appropriate for paying the administrative costs and expenses of the authority in carrying out the provisions of this chapter;

(14) Establish such reserves and special funds, and controls on deposits to and disbursements from them, as the authority deems necessary, useful, or convenient to accomplish its purposes;

(15) Prepare, publish, and distribute, with or without charge, such studies, reports, bulletins, and other material as the authority deems necessary, useful, or convenient to accomplish its purposes;

(16) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(17) Adopt rules concerning its exercise of the powers authorized by this chapter; and

(18) Exercise any other power the authority deems necessary, useful, or convenient to accomplish its purposes and exercise the powers expressly granted in this chapter.

NEW SECTION. **Sec. 9.** Notwithstanding any other provision of this chapter, an authority may not:

(1) Give any municipal or state money or property or loan any municipal or state money or credit to or in aid of any individual, association, company, or corporation, or become directly or indirectly the owner of any stock in or bonds of any association, company, or corporation;

(2) Issue bills of credit or accept deposits of money for time or demand deposit, administer trusts, engage in any form or manner in, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings and loan association other than as provided in this chapter;

(3) Be or constitute a bank or trust company within the jurisdiction or under the control of the director of financial institutions, the comptroller of the currency of the United States of America, or the treasury department thereof;

(4) Be or constitute a bank, broker, or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange, or securities dealers' law of the United States of America or the state;

(5) Engage in the financing of housing as provided for in chapter 43.180 RCW;

(6) Engage in the financing of health care facilities as provided for in chapter 70.37 RCW;

(7) Engage in financing higher education facilities as provided for in chapter 28B.07 RCW; or

(8) Exercise any of the powers authorized in this chapter or issue any revenue bonds with respect to any economic development activity unless the economic development activity is located wholly within the boundaries of the municipality under whose auspices the authority is created or unless the economic development activity comprises energy facilities or solid waste disposal facilities which provide energy for or dispose of solid waste from the municipality or the residents thereof.

NEW SECTION. **Sec. 10.** (1) An authority may issue its nonrecourse revenue bonds in order to obtain the funds to carry out the programs authorized in this chapter. The bonds must be special obligations of the authority, payable solely out of the special fund or funds established by the authority for their repayment.

(2) Any bonds issued under this chapter may be secured by a financing document between the authority and the purchasers or owners of such bonds or between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state.

(a) The financing document may pledge or assign, in whole or in part, the revenues and funds held or to be received by the authority, any present or future contract or other rights to receive the same, and the proceeds thereof.

(b) The financing document may contain such provisions for protecting and enforcing the rights, security, and remedies of bond owners as may be reasonable and proper including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event of default which may include the acceleration of maturities, restrictions on the individual rights of action by bond owners, and covenants setting forth duties of and limitations on the authority in conduct of its programs and the management of its property.

(c) In addition to other security provided in this chapter or otherwise by law, bonds issued by the authority may be secured, in whole or in part, by financial guaranties, by insurance or by letters of credit issued to the authority or a trustee or any other person, by any bank, trust company, insurance or surety company, or other financial institution, within or without the state. The authority may pledge or assign, in whole or in part, the revenues and funds held or to be received by the authority, any present or future contract or other rights to receive the same, and the proceeds thereof, as security for such guaranties or insurance or for the reimbursement by the authority to any issuer of such letter of credit of any payments made under such letter of credit.

(3) Without limiting the powers of the authority contained in this chapter, in connection with each issue of its obligation bonds, the authority must create and establish one or more special funds including, but not limited to, debt service and sinking funds, reserve funds, project funds, and such other special funds as the authority deems necessary, useful, or convenient.

(4) Any security interest created against the unexpended bond proceeds and against the special funds created by the authority is immediately valid and binding against the money and any securities in which the money may be invested without authority or trustee possession. The security interest must be prior to any party having any competing claim against the moneys or securities, without filing or recording under Article 9A of the uniform commercial code, Title 62A RCW, and regardless of whether the party has notice of the security interest.

(5) The bonds may be issued as serial bonds, term bonds, or any other type of bond instrument consistent with the provisions of this chapter. The bonds must bear such date or dates; mature at such time or times; bear interest at such rate or rates, either fixed or variable; be payable at such time or times; be in such denominations; be in such form; bear such privileges of transferability, exchangeability, and interchangeability; be subject to such terms of redemption; and be sold at public or private sale, in such manner, at such time or times, and at such price or prices as the authority determines. The bonds must be executed by the manual or facsimile signatures of the authority's chair and either its secretary or executive director, and may be authenticated by the trustee (if the authority determines to use a trustee) or any registrar which may be designated for the bonds by the authority.

(6) Bonds may be issued by the authority to refund other outstanding authority bonds, at or prior to maturity of, and to pay any redemption premium on, the outstanding bonds. Bonds issued for refunding purposes may be combined with bonds issued for the financing or refinancing of new projects. Pending the application of the proceeds of the refunding bonds to the redemption of the bonds to be redeemed, the authority may enter into an agreement or agreements with a corporate trustee regarding the interim investment of the proceeds and the application of the proceeds and the earnings on the proceeds to the payment of the principal of and interest on, and the redemption of, the bonds to be redeemed.

(7) The bonds of the authority may be negotiable instruments under Title 62A RCW.

(8) Neither the board of directors of the authority, nor its employees or agents, nor any person executing the bonds is personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance of the bonds.

(9) The authority may purchase its bonds with any of its funds available for the purchase. The authority may hold, pledge, cancel, or resell the bonds subject to and in accordance with agreements with bond owners.

(10) The state finance committee must be notified in advance of the issuance of bonds by the authority in order to promote the orderly offering of obligations in the financial markets.

NEW SECTION. **Sec. 11.** (1) Bonds issued by an authority established under this chapter are not considered to constitute a debt of the state, of the municipality, or of any other municipal corporation, quasi-municipal corporation, subdivision, or agency of this state or to pledge any or all of the faith and credit of any of these entities. The revenue bonds are payable solely from both the revenues derived as a result of the economic development activities funded by the revenue bonds including, without limitation, amounts received under the terms of any financing document or by reason of any additional security furnished by beneficiaries of the economic development activity in connection with the financing thereof, and money and other property received from private sources. The issuance of bonds under this chapter do not obligate, directly, indirectly, or contingently, the state or any political subdivision of the state to levy any taxes or appropriate or expend any funds for the payment of the principal or the interest on the bonds. Each revenue bond must contain on its face, and any disclosure document prepared in conjunction with the offer and sale of bonds must include, statements to the effect that:

(a) Neither the state, the municipality, or any other municipal corporation, quasi-municipal corporation, subdivision, or agency of the state is obligated to pay the principal or the interest thereon;

(b) No tax funds or governmental revenue may be used to pay the principal or interest thereon; and

(c) Neither any or all of the faith and credit nor the taxing power of the state, the municipality, or any other municipal corporation, quasi-municipal corporation, subdivision, or agency thereof is pledged to the payment of the principal of or the interest on the revenue bond.

(2) Neither the proceeds of bonds issued under this chapter nor any money used or to be used to pay the principal of, premium, if any, or interest on the

bonds constitute public money or property. All of such money must be kept segregated and set apart from funds of the state and any political subdivision of the state and are not subject to appropriation or allotment by the state or subject to the provisions of chapter 43.88 RCW.

(3) Contracts entered into by an authority must be entered into in the name of the authority and not in the name of the state or any political subdivision of the state. The obligations of the authority under such contracts are obligations only of the authority and are not, in any way, obligations of the municipality creating the authority or the state. An authority may incur only those financial obligations which will be paid from revenues received pursuant to financing documents, from fees or charges paid by beneficiaries of the economic development activities funded by the revenue bonds, or from the proceeds of revenue bonds.

NEW SECTION. **Sec. 12.** (1)(a) An authority may enter into financing documents with borrowers regarding bonds issued by the authority that may provide for the payment by each borrower of amounts sufficient, together with other revenues available to the authority, if any, to:

(i) Pay the borrower's share of the fees established by the authority;

(ii) Pay the principal of, premium, if any, and interest on outstanding bonds of the authority issued in respect of such borrower as the same become due and payable; and

(iii) Create and maintain reserves required or provided for by the authority in connection with the issuance of such bonds.

(b) The payments are not subject to supervision or regulation by any department, committee, board, body, bureau, or agency of the state.

(2) All money received by or on behalf of the authority with respect to this issuance of its bonds must be trust funds to be held and applied solely as provided in this chapter. The authority, in lieu of receiving and applying the moneys itself, may enter into trust agreement or indenture with one or more banks or trust companies having the power and authority to conduct trust business in the state to:

(a) Perform all or any part of the obligations of the authority with respect to:

(i) Bonds issued by it;

(ii) The receipt, investment, and application of the proceeds of the bonds and money paid by a participant or available from other sources for the payment of the bonds;

(iii) The enforcement of the obligations of a borrower in connection with the financing or refinancing of any project; and

(iv) Other matters relating to the exercise of the authority's powers under this chapter;

(b) Receive, hold, preserve, and enforce any security interest or evidence of security interest granted by a participant for purposes of securing the payment of the bonds; and

(c) Act on behalf of the authority or the owners of bonds of the authority for purposes of assuring or enforcing the payment of the bonds, when due.

NEW SECTION. **Sec. 13.** (1) Any owner of bonds issued under this chapter by any authority, and the trustee under any trust agreement or indenture, may, either at law or in equity, by suit, action, mandamus, or other proceeding,

protect and enforce any of their respective rights, and may become the purchaser at any foreclosure sale if the person is the highest bidder, except to the extent the rights given are restricted by the authority in any bond resolution or trust agreement or indenture authorizing the issuance of the bonds.

(2) The bonds of an authority are securities in which all public officers and bodies of this state and all counties, cities, municipal corporations, and political subdivisions, all banks, eligible banking organizations, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control. However, a municipality under the auspices of which an authority was created and the county, city, or town within whose planning jurisdiction the economic development activity to be financed lies, may not invest in bonds issued by the authority.

NEW SECTION. **Sec. 14.** This chapter provides a complete, additional, and alternative method for accomplishing the purposes of this chapter and must be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

NEW SECTION. **Sec. 15.** Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter are controlling.

NEW SECTION. **Sec. 16.** Sections 1 through 15 of this act constitute a new chapter in Title 39 RCW.

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 5, 2012.
Passed by the House March 1, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 194

[Substitute Senate Bill 6277]

PROPERTY TAX EXEMPTION—MULTIPLE-UNIT DWELLINGS—URBAN CENTERS

AN ACT Relating to creating authority for counties to exempt from property taxation new and rehabilitated multiple-unit dwellings in certain unincorporated urban centers; amending RCW 84.14.007, 84.14.030, 84.14.040, 84.14.050, 84.14.070, 84.14.090, 84.14.100, and 84.14.110; and reenacting and amending RCW 84.14.010 and 84.14.060.

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

Sec. 1. RCW 84.14.007 and 2007 c 430 s 2 are each amended to read as follows:

It is the purpose of this chapter to encourage increased residential opportunities, including affordable housing opportunities, in cities that are required to plan or choose to plan under the growth management act within urban centers where the governing authority of the affected city has found there

is insufficient housing opportunities, including affordable housing opportunities. It is further the purpose of this chapter to stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing in urban centers having insufficient housing opportunities that will increase and improve residential opportunities, including affordable housing opportunities, within these urban centers. To achieve these purposes, this chapter provides for special valuations in residentially deficient urban centers for eligible improvements associated with multiunit housing, which includes affordable housing. It is an additional purpose of this chapter to allow certain counties to stimulate housing opportunities near college campuses to promote dense, transit-oriented, walkable college communities.

Sec. 2. RCW 84.14.010 and 2007 c 430 s 3 and 2007 c 185 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) "Campus facilities master plan" means the area that is defined by the University of Washington as necessary for the future growth and development of its campus facilities for branch campuses authorized under RCW 28B.45.020.

(2) "City" means either (a) a city or town with a population of at least fifteen thousand, (b) the largest city or town, if there is no city or town with a population of at least fifteen thousand, located in a county planning under the growth management act, or (c) a city or town with a population of at least five thousand located in a county subject to the provisions of RCW 36.70A.215.

(3) "Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low or moderate-income households.

(4) "County" means a county with an unincorporated population of at least three hundred fifty thousand.

(5) "Household" means a single person, family, or unrelated persons living together.

(((~~(5)~~))) (6) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development. For cities located in high-cost areas, "low-income household" means a household that has an income at or below one hundred percent of the median family income adjusted for family size, for the county where the project is located.

(((~~(6)~~))) (7) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent but is at or below one hundred fifteen percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development. For cities located in high-cost areas, "moderate-income household" means a household that has an income that is more than one hundred percent, but at or

below one hundred fifty percent, of the median family income adjusted for family size, for the county where the project is located.

((~~(7)~~)) (8) "High cost area" means a county where the third quarter median house price for the previous year as reported by the Washington center for real estate research at Washington State University is equal to or greater than one hundred thirty percent of the statewide median house price published during the same time period.

((~~(8)~~)) (9) "Governing authority" means the local legislative authority of a city or a county having jurisdiction over the property for which an exemption may be applied for under this chapter.

((~~(9)~~)) (10) "Growth management act" means chapter 36.70A RCW.

((~~(10)~~)) (11) "Multiple-unit housing" means a building having four or more dwelling units not designed or used as transient accommodations and not including hotels and motels. Multifamily units may result from new construction or rehabilitated or conversion of vacant, underutilized, or substandard buildings to multifamily housing.

((~~(11)~~)) (12) "Owner" means the property owner of record.

((~~(12)~~)) (13) "Permanent residential occupancy" means multiunit housing that provides either rental or owner occupancy on a nontransient basis. This includes owner-occupied or rental accommodation that is leased for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

((~~(13)~~)) (14) "Rehabilitation improvements" means modifications to existing structures, that are vacant for twelve months or longer, that are made to achieve a condition of substantial compliance with existing building codes or modification to existing occupied structures which increase the number of multifamily housing units.

((~~(14)~~)) (15) "Residential targeted area" means an area within an urban center that has been designated by the governing authority as a residential targeted area in accordance with this chapter. With respect to designations after July 1, 2007, "residential targeted area" may not include a campus facilities master plan.

((~~(15)~~)) (16) "Substantial compliance" means compliance with local building or housing code requirements that are typically required for rehabilitation as opposed to new construction.

((~~(16)~~)) (17) "Urban center" means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

(a) Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies;

(b) Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and

(c) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both, use.

Sec. 3. RCW 84.14.030 and 2007 c 430 s 5 are each amended to read as follows:

An owner of property making application under this chapter must meet the following requirements:

(1) The new or rehabilitated multiple-unit housing must be located in a residential targeted area as designated by the city or county;

(2) The multiple-unit housing must meet guidelines as adopted by the governing authority that may include height, density, public benefit features, number and size of proposed development, parking, income limits for occupancy, limits on rents or sale prices, and other adopted requirements indicated necessary by the city or county. The required amenities should be relative to the size of the project and tax benefit to be obtained;

(3) The new, converted, or rehabilitated multiple-unit housing must provide for a minimum of fifty percent of the space for permanent residential occupancy. In the case of existing occupied multifamily development, the multifamily housing must also provide for a minimum of four additional multifamily units. Existing multifamily vacant housing that has been vacant for twelve months or more does not have to provide additional multifamily units;

(4) New construction multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application;

(5) Property proposed to be rehabilitated must fail to comply with one or more standards of the applicable state or local building or housing codes on or after July 23, 1995. If the property proposed to be rehabilitated is not vacant, an applicant ((~~shall~~)) must provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate; and

(6) The applicant must enter into a contract with the city or county approved by the governing authority, or an administrative official or commission authorized by the governing authority, under which the applicant has agreed to the implementation of the development on terms and conditions satisfactory to the governing authority.

Sec. 4. RCW 84.14.040 and 2007 c 430 s 6 are each amended to read as follows:

(1) The following criteria must be met before an area may be designated as a residential targeted area:

(a) The area must be within an urban center, as determined by the governing authority;

(b) The area must lack, as determined by the governing authority, sufficient available, desirable, and convenient residential housing, including affordable housing, to meet the needs of the public who would be likely to live in the urban center, if the affordable, desirable, attractive, and livable places to live were available; ((~~and~~))

(c) The providing of additional housing opportunity, including affordable housing, in the area, as determined by the governing authority, will assist in achieving one or more of the stated purposes of this chapter; and

(d) If the residential targeted area is designated by a county, the area must be located in an unincorporated area of the county that is within an urban growth area under RCW 36.70A.110 and the area must include a campus of an institution of higher education, as defined in RCW 28B.92.030, where at least one thousand two hundred students live on campus during the academic year.

(2) For the purpose of designating a residential targeted area or areas, the governing authority may adopt a resolution of intention to so designate an area as generally described in the resolution. The resolution must state the time and place of a hearing to be held by the governing authority to consider the designation of the area and may include such other information pertaining to the designation of the area as the governing authority determines to be appropriate to apprise the public of the action intended.

(3) The governing authority ((~~shall~~)) must give notice of a hearing held under this chapter by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than thirty days before the date of the hearing in a paper having a general circulation in the city or county where the proposed residential targeted area is located. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated as a residential targeted area.

(4) Following the hearing, or a continuance of the hearing, the governing authority may designate all or a portion of the area described in the resolution of intent as a residential targeted area if it finds, in its sole discretion, that the criteria in subsections (1) through (3) of this section have been met.

(5) After designation of a residential targeted area, the governing authority must adopt and implement standards and guidelines to be utilized in considering applications and making the determinations required under RCW 84.14.060. The standards and guidelines must establish basic requirements for both new construction and rehabilitation, which must include:

(a) Application process and procedures;

(b) Requirements that address demolition of existing structures and site utilization; and

(c) Building requirements that may include elements addressing parking, height, density, environmental impact, and compatibility with the existing surrounding property and such other amenities as will attract and keep permanent residents and that will properly enhance the livability of the residential targeted area in which they are to be located.

(6) The governing authority may adopt and implement, either as conditions to eight-year exemptions or as conditions to an extended exemption period under RCW 84.14.020((~~(2)~~)) (1)(a)(ii)(B), or both, more stringent income eligibility, rent, or sale price limits, including limits that apply to a higher percentage of units, than the minimum conditions for an extended exemption period under RCW 84.14.020((~~(2)~~)) (1)(a)(ii)(B). For any multiunit housing located in an unincorporated area of a county, a property owner seeking tax incentives under this chapter must commit to renting or selling at least twenty percent of the multifamily housing units as affordable housing units to low and moderate-income households. In the case of multiunit housing intended exclusively for owner occupancy, the minimum requirement of this subsection (6) may be satisfied solely through housing affordable to moderate-income households.

Sec. 5. RCW 84.14.050 and 2007 c 430 s 7 are each amended to read as follows:

An owner of property seeking tax incentives under this chapter must complete the following procedures:

(1) In the case of rehabilitation or where demolition or new construction is required, the owner ((~~shall~~)) must secure from the governing authority or duly

authorized representative, before commencement of rehabilitation improvements or new construction, verification of property noncompliance with applicable building and housing codes;

(2) In the case of new and rehabilitated multifamily housing, the owner ((~~shall~~)) must apply to the city or county on forms adopted by the governing authority. The application must contain the following:

(a) Information setting forth the grounds supporting the requested exemption including information indicated on the application form or in the guidelines;

(b) A description of the project and site plan, including the floor plan of units and other information requested;

(c) A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter;

(3) The applicant must verify the application by oath or affirmation; and

(4) The application must be accompanied by the application fee, if any, required under RCW 84.14.080. The governing authority may permit the applicant to revise an application before final action by the governing authority.

Sec. 6. RCW 84.14.060 and 2007 c 430 s 8 and 2007 c 185 s 2 are each reenacted and amended to read as follows:

(1) The duly authorized administrative official or committee of the city or county may approve the application if it finds that:

(a) A minimum of four new units are being constructed or in the case of occupied rehabilitation or conversion a minimum of four additional multifamily units are being developed;

(b) If applicable, the proposed multiunit housing project meets the affordable housing requirements as described in RCW 84.14.020;

(c) The proposed project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved;

(d) The owner has complied with all standards and guidelines adopted by the city or county under this chapter; and

(e) The site is located in a residential targeted area of an urban center that has been designated by the governing authority in accordance with procedures and guidelines indicated in RCW 84.14.040.

(2) An application may not be approved after July 1, 2007, if any part of the proposed project site is within a campus facilities master plan, except as provided in RCW 84.14.040(1)(d).

Sec. 7. RCW 84.14.070 and 1995 c 375 s 10 are each amended to read as follows:

(1) The governing authority or an administrative official or commission authorized by the governing authority ((~~shall~~)) must approve or deny an application filed under this chapter within ninety days after receipt of the application.

(2) If the application is approved, the city ((~~shall~~)) or county must issue the owner of the property a conditional certificate of acceptance of tax exemption. The certificate must contain a statement by a duly authorized administrative

official of the governing authority that the property has complied with the required findings indicated in RCW ((~~84.14.050~~)) 84.14.060.

(3) If the application is denied by the authorized administrative official or commission authorized by the governing authority, the deciding administrative official or commission ((~~shall~~)) must state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.

(4) Upon denial by a duly authorized administrative official or commission, an applicant may appeal the denial to the governing authority within thirty days after receipt of the denial. The appeal before the governing authority ((~~will~~)) must be based upon the record made before the administrative official with the burden of proof on the applicant to show that there was no substantial evidence to support the administrative official's decision. The decision of the governing body in denying or approving the application is final.

Sec. 8. RCW 84.14.090 and 2007 c 430 s 9 are each amended to read as follows:

(1) Upon completion of rehabilitation or new construction for which an application for a limited tax exemption under this chapter has been approved and after issuance of the certificate of occupancy, the owner ((~~shall~~)) must file with the city or county the following:

(a) A statement of the amount of rehabilitation or construction expenditures made with respect to each housing unit and the composite expenditures made in the rehabilitation or construction of the entire property;

(b) A description of the work that has been completed and a statement that the rehabilitation improvements or new construction on the owner's property qualify the property for limited exemption under this chapter;

(c) If applicable, a statement that the project meets the affordable housing requirements as described in RCW 84.14.020; and

(d) A statement that the work has been completed within three years of the issuance of the conditional certificate of tax exemption.

(2) Within thirty days after receipt of the statements required under subsection (1) of this section, the authorized representative of the city ((~~shall~~)) or county must determine whether the work completed, and the affordability of the units, is consistent with the application and the contract approved by the city or county and is qualified for a limited tax exemption under this chapter. The city ((~~shall~~)) or county must also determine which specific improvements completed meet the requirements and required findings.

(3) If the rehabilitation, conversion, or construction is completed within three years of the date the application for a limited tax exemption is filed under this chapter, or within an authorized extension of this time limit, and the authorized representative of the city or county determines that improvements were constructed consistent with the application and other applicable requirements, including if applicable, affordable housing requirements, and the owner's property is qualified for a limited tax exemption under this chapter, the city ((~~shall~~)) or county must file the certificate of tax exemption with the county assessor within ten days of the expiration of the thirty-day period provided under subsection (2) of this section.

(4) The authorized representative of the city ((~~shall~~)) or county must notify the applicant that a certificate of tax exemption is not going to be filed if the authorized representative determines that:

(a) The rehabilitation or new construction was not completed within three years of the application date, or within any authorized extension of the time limit;

(b) The improvements were not constructed consistent with the application or other applicable requirements;

(c) If applicable, the affordable housing requirements as described in RCW 84.14.020 were not met; or

(d) The owner's property is otherwise not qualified for limited exemption under this chapter.

(5) If the authorized representative of the city or county finds that construction or rehabilitation of multiple-unit housing was not completed within the required time period due to circumstances beyond the control of the owner and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the governing authority or the city or county official authorized by the governing authority may extend the deadline for completion of construction or rehabilitation for a period not to exceed twenty-four consecutive months.

(6) The governing authority may provide by ordinance for an appeal of a decision by the deciding officer or authority that an owner is not entitled to a certificate of tax exemption to the governing authority, a hearing examiner, or other city or county officer authorized by the governing authority to hear the appeal in accordance with such reasonable procedures and time periods as provided by ordinance of the governing authority. The owner may appeal a decision by the deciding officer or authority that is not subject to local appeal or a decision by the local appeal authority that the owner is not entitled to a certificate of tax exemption in superior court under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty days of notification by the city or county to the owner of the decision being challenged.

Sec. 9. RCW 84.14.100 and 2007 c 430 s 10 are each amended to read as follows:

(1) Thirty days after the anniversary of the date of the certificate of tax exemption and each year for the tax exemption period, the owner of the rehabilitated or newly constructed property ((~~shall~~)) must file with a designated authorized representative of the city or county an annual report indicating the following:

(a) A statement of occupancy and vacancy of the rehabilitated or newly constructed property during the twelve months ending with the anniversary date;

(b) A certification by the owner that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in RCW 84.14.020 since the date of the certificate approved by the city or county;

(c) A description of changes or improvements constructed after issuance of the certificate of tax exemption; and

(d) Any additional information requested by the city or county in regards to the units receiving a tax exemption.

(2) All cities or counties, which issue certificates of tax exemption for multiunit housing that conform to the requirements of this chapter, ((~~shall~~)) must report annually by December 31st of each year, beginning in 2007, to the department of ((~~community, trade, and economic development~~)) commerce. The report must include the following information:

(a) The number of tax exemption certificates granted;

(b) The total number and type of units produced or to be produced;

(c) The number and type of units produced or to be produced meeting affordable housing requirements;

(d) The actual development cost of each unit produced;

(e) The total monthly rent or total sale amount of each unit produced;

(f) The income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied units at the time of purchase for each of the units receiving a tax exemption and a summary of these figures for the city or county; and

(g) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

Sec. 10. RCW 84.14.110 and 2007 c 430 s 11 are each amended to read as follows:

(1) If improvements have been exempted under this chapter, the improvements continue to be exempted for the applicable period under RCW 84.14.020, so long as they are not converted to another use and continue to satisfy all applicable conditions. If the owner intends to convert the multifamily development to another use, or if applicable, if the owner intends to discontinue compliance with the affordable housing requirements as described in RCW 84.14.020 or any other condition to exemption, the owner ((~~shall~~)) must notify the assessor within sixty days of the change in use or intended discontinuance. If, after a certificate of tax exemption has been filed with the county assessor, the authorized representative of the governing authority discovers that a portion of the property is changed or will be changed to a use that is other than residential or that housing or amenities no longer meet the requirements, including, if applicable, affordable housing requirements, as previously approved or agreed upon by contract between the city or county and the owner and that the multifamily housing, or a portion of the housing, no longer qualifies for the exemption, the tax exemption must be canceled and the following must occur:

(a) Additional real property tax must be imposed upon the value of the nonqualifying improvements in the amount that would normally be imposed, plus a penalty must be imposed amounting to twenty percent. This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the nonqualifying improvements dated back to the date that the improvements were converted to a nonmultifamily use;

(b) The tax must include interest upon the amounts of the additional tax at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the improvements had been assessed at a value without regard to this chapter; and

(c) The additional tax owed together with interest and penalty must become a lien on the land and attach at the time the property or portion of the property is removed from multifamily use or the amenities no longer meet applicable

requirements, and has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(2) Upon a determination that a tax exemption is to be canceled for a reason stated in this section, the governing authority or authorized representative ((~~shall~~)) must notify the record owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to cancel the exemption. The owner may appeal the determination to the governing authority or authorized representative, within thirty days by filing a notice of appeal with the clerk of the governing authority, which notice must specify the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The governing authority or a hearing examiner or other official authorized by the governing authority may hear the appeal. At the hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer ((~~shall~~)) must either affirm, modify, or repeal the decision of cancellation of exemption based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court under RCW 34.05.510 through 34.05.598.

(3) Upon determination by the governing authority or authorized representative to terminate an exemption, the county officials having possession of the assessment and tax rolls ((~~shall~~)) must correct the rolls in the manner provided for omitted property under RCW 84.40.080. The county assessor ((~~shall~~)) must make such a valuation of the property and improvements as is necessary to permit the correction of the rolls. The value of the new housing construction, conversion, and rehabilitation improvements added to the rolls ((~~shall be~~)) is considered as new construction for the purposes of chapter 84.55 RCW. The owner may appeal the valuation to the county board of equalization under chapter 84.48 RCW and according to the provisions of RCW 84.40.038. If there has been a failure to comply with this chapter, the property must be listed as an omitted assessment for assessment years beginning January 1 of the calendar year in which the noncompliance first occurred, but the listing as an omitted assessment may not be for a period more than three calendar years preceding the year in which the failure to comply was discovered.

Passed by the Senate March 8, 2012.
Passed by the House March 8, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 195

[Engrossed Substitute Senate Bill 6355]

ASSOCIATE DEVELOPMENT ORGANIZATIONS

AN ACT Relating to associate development organizations; and amending RCW 43.330.080, 43.330.082, and 43.162.020.

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

Sec. 1. RCW 43.330.080 and 2011 c 286 s 2 are each amended to read as follows:

((~~In carrying out its obligations under RCW 43.330.070,~~)) (1)(a) The department must ((~~provide business services training to and~~)) contract with county-designated associate development organizations to increase the support for and coordination of community and economic development services in communities or regional areas. ((~~The business services training provided to the organizations contracted with must include, but need not be limited to, training in the fundamentals of export assistance and the services available from private and public export assistance providers in the state. The organizations contracted within each community or regional area must work closely with the department to carry out state-identified economic development priorities and must be broadly representative of community and economic interests. The organization must~~)) The contracting organizations in each community or regional area must:

(i) Be broadly representative of community and economic interests;

(ii) Be capable of identifying key economic and community development problems, developing appropriate solutions, and mobilizing broad support for recommended initiatives((~~. The contracting organization must~~));

(iii) Work closely with the department to carry out state-identified economic development priorities;

(iv) Work with and include local governments, local chambers of commerce, workforce development councils, port districts, labor groups, institutions of higher education, community action programs, and other appropriate private, public, or nonprofit community and economic development groups; and

(v) Meet and share best practices with other associate development organizations at least two times each year.

(b) The scope of services delivered under ((~~these~~)) the contracts required in (a) of this subsection must include two broad areas of work:

(((~~(1)~~))) (i) Direct assistance, including business planning, to companies throughout the county who need support to stay in business, expand, or relocate to Washington from out of state or other countries. Assistance must comply with business recruitment and retention protocols established in RCW 43.330.062, and includes:

(((~~(a)~~))) (A) Working with the appropriate partners throughout the county((~~,~~)) including, but not limited to, local governments, workforce development councils, port districts, community and technical colleges and higher education institutions, export assistance providers, ((~~the Washington manufacturing services~~)) impact Washington, the Washington state quality award council, small business assistance programs, innovation partnership zones, and other federal, state, and local programs to facilitate the alignment of planning efforts and the seamless delivery of business support services within the entire county;

(((~~(b)~~))) (B) Providing information on state and local permitting processes, tax issues, export assistance, and other essential information for operating, expanding, or locating a business in Washington;

(((~~(c)~~))) (C) Marketing Washington and local areas as excellent locations to expand or relocate a business and positioning Washington as a globally

competitive place to grow business, which may include developing and executing regional plans to attract companies from out of state;

((~~(d)~~)) (D) Working with businesses on site location and selection assistance;

((~~(e)~~)) (E) Providing business retention and expansion services throughout the county((~~, including~~)). Such services must include, but are not limited to, business outreach and monitoring efforts to identify and address challenges and opportunities faced by businesses, assistance to trade impacted businesses in applying for grants from the federal trade adjustment assistance for firms program, and the provision of information to businesses on:

(I) Resources available for microenterprise development;

(II) Resources available on the revitalization of commercial districts; and

(III) The opportunity to maintain jobs through shared work programs authorized under chapter 50.60 RCW;

((~~(f)~~)) (F) Participating in economic development system-wide discussions regarding gaps in business start-up assistance in Washington; ((~~and~~

~~(g)~~)) (G) Providing or facilitating the provision of export assistance through workshops or one-on-one assistance; and

(H) Using a web-based information system to track data on business recruitment, retention, expansion, and trade; and

((~~(2)~~)) (ii) Support for regional economic research and regional planning efforts to implement target industry sector strategies and other economic development strategies, including cluster-based strategies((~~, that support increased living standards and increase foreign direct investment throughout Washington~~)). Research and planning efforts should support increased living standards and increased foreign direct investment, and be aligned with the statewide economic development strategy. Regional associate development organizations retain their independence to address local concerns and goals. Activities include:

(((~~(a) Participation~~)) (A) Participating in regional planning efforts with workforce development councils involving coordinated strategies around workforce development and economic development policies and programs. Coordinated planning efforts must include, but not be limited to, assistance to industry clusters in the region;

(((~~(b) Participation between the contracting organization and~~)) (B) Participating with the state board for community and technical colleges as created in RCW 28B.50.050, and any community and technical colleges in ((~~providing for~~)) the coordination of the job skills training program and the customized training program within its region;

((~~(c)~~)) (C) Collecting and reporting data as specified by the contract with the department for statewide systemic analysis. The department must consult with the Washington state economic development commission in the establishment of such uniform data as is needed to conduct a statewide systemic analysis of the state's economic development programs and expenditures. In cooperation with other local, regional, and state planning efforts, contracting organizations may provide insight into the needs of target industry clusters, business expansion plans, early detection of potential relocations or layoffs, training needs, and other appropriate economic information;

(((~~(d)~~))) (D) In conjunction with other governmental jurisdictions and institutions, participate in the development of a countywide economic development plan, consistent with the state comprehensive plan for economic development developed by the Washington state economic development commission.

(2) The department must provide business services training to the contracting organizations, including but not limited to:

(a) Training in the fundamentals of export assistance and the services available from private and public export assistance providers in the state; and

(b) Training in the provision of business retention and expansion services as required by subsection (1)(b)(i)(E) of this section.

Sec. 2. RCW 43.330.082 and 2011 c 286 s 3 are each amended to read as follows:

(1)(a) Contracting associate development organizations must provide the department with measures of their performance and a summary of best practices shared and implemented by the contracting organizations. Annual reports must include ((~~information on the impact of the contracting organization on employment, wages, tax revenue, and capital investment. Specific measures must be developed in the contracting process between the department~~)) the following information to show the contracting organization's impact on employment and overall changes in employment: Current employment and economic information for the community or regional area produced by the employment security department; the net change from the previous year's employment and economic information using data produced by the employment security department; other relevant information on the community or regional area; the amount of funds received by the contracting organization through its contract with the department; the amount of funds received by the contracting organizations through all sources; and the contracting organization's impact on employment through all funding sources. Annual reports may include the impact of the contracting organization on wages, exports, tax revenue, small business creation, foreign direct investment, business relocations, expansions, terminations, and capital investment. Data must be input into a common web-based business information system managed by the department. Specific measures, data standards, and data definitions must be developed in the contracting process between the department, the economic development commission, and the contracting organization every two years. Except as provided in (b) of this subsection, performance measures should be consistent across regions to allow for statewide evaluation.

(b) In addition to the measures required in (a) of this subsection, contracting associate development organizations in counties with a population greater than one million five hundred thousand persons must include the following measures in reports to the department:

(i) The number of small businesses that received retention and expansion services, and the outcome of those services;

(ii) The number of businesses located outside of the boundaries of the largest city within the contracting associate development organization's region that received recruitment, retention, and expansion services, and the outcome of those services.

(2)(a) The department and contracting associate development organizations must agree upon specific target levels for the performance measures in subsection (1) of this section. Comparison of agreed thresholds and actual performance must occur annually.

(b) Contracting organizations that fail to achieve the agreed performance targets in more than one-half of the agreed measures must develop remediation plans to address performance gaps. The remediation plans must include revised performance thresholds specifically chosen to provide evidence of progress in making the identified service changes.

(c) Contracts and state funding must be terminated for one year for organizations that fail to achieve the agreed upon progress toward improved performance defined under (b) of this subsection. During the year in which termination for nonperformance is in effect, organizations must review alternative delivery strategies to include reorganization of the contracting organization, merging of previous efforts with existing regional partners, and other specific steps toward improved performance. At the end of the period of termination, the department may contract with the associate development organization or its successor as it deems appropriate.

(3) The department must submit a preliminary report to the Washington economic development commission by September 1st of each even-numbered year, and a final report to the legislature and the Washington economic development commission by December 31st of each even-numbered year on the performance results of the contracts with associate development organizations.

(4) Contracting associate development organizations must provide the Washington state economic development commission with information to be used in the comprehensive statewide economic development strategy and progress report due under RCW 43.162.020, by the date determined by the commission.

Sec. 3. RCW 43.162.020 and 2011 c 311 s 5 are each amended to read as follows:

(1) The commission must concentrate its major efforts on strategic planning, policy research and analysis, advocacy, evaluation, and promoting coordination and collaboration.

(2) During each regular legislative session, the commission must consult with appropriate legislative committees about the state's economic development needs and opportunities.

(3)(a) By October 1st of each even-numbered year, the commission must submit to the governor and legislature a biennial comprehensive statewide economic development strategy with a report on progress from the previous comprehensive strategy.

(b) The comprehensive statewide economic development strategy must include the industry clusters in the state and the strategic clusters targeted by the commission for economic development efforts. The commission must consult with the workforce training and education coordinating board and include labor market and economic information by the employment security department in developing the list of clusters and strategic clusters that meet the criteria identified by the working group convened by the economic development commission and the workforce training and education coordinating board under chapter 43.330 RCW.

(4)(a) In developing the comprehensive statewide economic development strategy, the commission must use, but may not be limited to: Economic, labor market, and populations trend reports in office of financial management forecasts; the annual state economic climate report prepared by the economic climate council; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome evaluations; the needs of industry associations, industry clusters, businesses, and employees as evidenced in formal surveys and other input.

(b) The comprehensive statewide economic development strategy may include:

(i) An assessment of the state's economic vitality;

(ii) Recommended goals, objectives, and priorities for the next biennium, and the future;

(iii) A common set of outcomes and benchmarks for the economic development system as a whole;

(iv) Recommendations for removing barriers and promoting collaboration among participants in the innovation ecosystem;

(v) An inventory of existing relevant programs compiled by the commission from materials submitted by agencies;

(vi) Recommendations for expanding, discontinuing, or redirecting existing programs, or adding new programs; and

(vii) Recommendations of best practices and public and private sector roles in implementing the comprehensive statewide economic development strategy.

(c) The report on progress from the previous comprehensive strategy must include information provided by associate development organizations as requested by the commission. The commission may include recommendations for associate development organizations in the report on progress or in the comprehensive statewide economic development strategy.

(5) In developing the biennial statewide economic development strategy, plans, inventories, assessments, and policy research, the commission must consult, collaborate, and coordinate with relevant state agencies, private sector businesses, nonprofit organizations involved in economic development, trade associations, associate development organizations, and relevant local organizations in order to avoid duplication of effort.

(6) State agencies and associate development organizations must cooperate with the commission and provide information as the commission may reasonably request.

(7) The commission must develop a biennial budget request for approval by the office of financial management. The commission must adopt an annual budget and work plan in accordance with the omnibus appropriations bill approved by the legislature.

(8)(a) The commission and its fiscal agent must jointly develop and adopt a memorandum of understanding to outline and establish clear lines of authority and responsibility between them related to budget and administrative services.

(b) The memorandum of understanding may not provide any additional grant of authorities to the commission or the fiscal agent that is not already provided for by statute, nor diminish any authorities or powers granted to either party by statute.

(c) Periodically, but not less often than biannually, the commission and fiscal agent must review the memorandum of understanding and, if necessary, recommend changes to the other party.

(d) As provided generally under RCW 43.162.015, the executive director of the commission must report solely to the governor and the commissioners on matters pertaining to commission operations.

(9) To maintain its objectivity and concentration on strategic planning, policy research and analysis, and evaluation, the commission may not take an administrative role in the delivery of services. However, subject to available resources and consistent with its work plan, the commission or the executive director may conduct outreach activities such as regional forums and best practices seminars.

(10) The commission must evaluate its own performance on a regular basis.

(11) The commission may accept gifts, grants, donations, sponsorships, or contributions from any federal, state, or local governmental agency or program, or any private source, and expend the same for any purpose consistent with this chapter.

Passed by the Senate March 5, 2012.
Passed by the House February 28, 2012.
Approved by the Governor March 29, 2012.
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CHAPTER 196

[Substitute Senate Bill 6359]

OFFICE OF REGULATORY ASSISTANCE

AN ACT Relating to modifying provisions related to the office of regulatory assistance; amending RCW 43.42.010, 43.42.050, 43.42.070, 43.42.095, 43.79A.040, 43.155.070, and 43.160.060; reenacting and amending RCW 43.42.060 and 43.84.092; and adding a new section to chapter 43.42 RCW.

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

Sec. 1. RCW 43.42.010 and 2011 c 149 s 2 are each amended to read as follows:

(1) The office of regulatory assistance is created in the office of financial management and must be administered by the office of the governor to help improve the regulatory system and assist citizens, businesses, and project proponents.

(2) The governor must appoint a director. The director may employ a deputy director and a confidential secretary and such staff as are necessary, or contract with another state agency pursuant to chapter 39.34 RCW for support in carrying out the purposes of this chapter.

(3) The office must offer to:

(a) Act as the central point of contact for the project proponent in communicating about defined issues;

(b) Conduct project scoping as provided in RCW 43.42.050;

(c) Verify that the project proponent has all the information needed to correctly apply for all necessary permits;

(d) Provide general coordination services;

(e) Coordinate the efficient completion among participating agencies of administrative procedures, such as collecting fees or providing public notice;

(f) Maintain contact with the project proponent and the permit agencies to promote adherence to agreed schedules;

(g) Assist in resolving any conflict or inconsistency among permit requirements and conditions;

(h) Coordinate, to the extent practicable, with relevant federal permit agencies and tribal governments;

(i) Facilitate meetings;

(j) Manage a fully coordinated permit process, as provided in RCW 43.42.060; and

(k) Help local jurisdictions comply with the requirements of chapter 36.70B RCW ((~~by providing information about best permitting practices methods to improve communication with, and solicit early involvement of, state agencies when needed; and~~

~~(l) Maintain and furnish information as provided in RCW 43.42.040~~)).

(4) The office must also:

(a) Provide information to local jurisdictions about best permitting practices, methods to improve communication with, and solicit early involvement of, state agencies when needed, and effective means of assessing and communicating expected project timelines and costs;

(b) Maintain and furnish information as provided in RCW 43.42.040; and

(c) Provide the following by September 1, 2009, and biennially thereafter, to the governor and the appropriate committees of the legislature:

(((~~(a)~~))) (i) A performance report including:

(((~~(i)~~))) (A) Information regarding use of the office's voluntary cost-reimbursement services as provided in RCW 43.42.070;

(((~~(ii)~~))) (B) The number and type of projects or initiatives where the office provided services ((~~and the resolution provided by the office on any conflicts that arose on such projects;~~

~~(iii) The agencies involved on specific projects;~~

~~(iv) Specific information on any difficulty encountered in provision of services, implementation of programs or processes, or use of tools; and~~

~~(v) Trend reporting that allows comparisons between statements of goals and performance targets and the achievement of those goals and targets; and~~

~~(b) Recommendations on system improvements including recommendations regarding:~~

~~(i) Measurement of overall system performance;~~

~~(ii) Changes needed to make cost reimbursement, a fully coordinated permit process, multiagency permitting teams, and other processes effective; and~~

~~(iii) Resolving any conflicts or inconsistencies arising from differing statutory or regulatory authorities, roles and missions of agencies, timing and sequencing of permitting and procedural requirements as identified by the office in the course of its duties~~)) including the key agencies with which the office partnered;

(C) Specific information on any difficulty encountered in providing services or implementing programs, processes, or assistance tools; and

(D) Trend reporting that allows comparisons between statements of goals and performance targets and the achievement of those goals and targets; and

(ii) Recommendations on system improvements including, but not limited to, recommendations on improving environmental permitting by making it more time efficient and cost-effective for all participants in the process.

Sec. 2. RCW 43.42.050 and 2009 c 97 s 5 are each amended to read as follows:

(1) Upon request of a project proponent, the office ((~~shall~~)) must determine the level of project scoping needed by the project proponent, taking into consideration the complexity of the project and the experience of those expected to be involved in the project application and review process. The director may require the attendance at a scoping meeting of any state or local agency.

(2) Project scoping ((~~shall~~)) must consider the complexity, size, and needs for assistance of the project and ((~~shall~~)) must address as appropriate:

(a) The permits that are required for the project;

(b) The permit application forms and other application requirements of the participating permit agencies;

(c) The specific information needs and issues of concern of each participant and their significance;

(d) Any statutory or regulatory conflicts that might arise from the differing authorities and roles of the permit agencies;

(e) Any natural resources, including federal or state listed species, that might be adversely affected by the project and might cause an alteration of the project or require mitigation; and

(f) The anticipated time required for permit decisions by each participating permit agency, including the estimated time required to determine if the permit application is complete, to conduct environmental review, and to review and process the application. In determining the estimated time required, full consideration must be given to achieving the greatest possible efficiencies through any concurrent studies and any consolidated applications, hearings, and comment periods.

(3) The outcome of the project scoping ((~~shall~~)) must be documented in writing, furnished to the project proponent, and be made available to the public.

(4) The project scoping ((~~shall~~)) must be completed prior to the passage of sixty days of the project proponent's request for a project scoping unless the director finds that better results can be obtained by delaying the project scoping meeting or meetings to ensure full participation.

(5) Upon completion of the project scoping, the participating permit agencies ((~~shall~~)) must proceed under their respective authorities. The agencies may remain in communication with the office as needed.

(6) This section does not create an independent cause of action, affect any existing cause of action, or establish time limits for purposes of RCW 64.40.020.

Sec. 3. RCW 43.42.060 and 2009 c 421 s 8 and 2009 c 97 s 6 are each reenacted and amended to read as follows:

(1) A project proponent may submit a written request to the director of the office for participation in a fully coordinated permit process. Designation as a fully coordinated project requires that:

(a) The project proponent enters into a cost-reimbursement agreement pursuant to RCW 43.42.070;

(b) The project has a designation under chapter 43.157 RCW; or

(c) The director determine that (i)(A) the project raises complex coordination, permit processing, or substantive permit review issues; or (B) if completed, the project would provide substantial benefits to the state; and (ii) the office, as well as the participating permit review agencies, have sufficient capacity within existing resources to undertake the full coordination process without reimbursement and without seriously affecting other services.

(2) A project proponent who requests designation as a fully coordinated permit process project must provide the office with a full description of the project. The office may request any information from the project proponent that is necessary to make the designation under this section, and may convene a scoping meeting or a work plan meeting of the likely participating permit agencies.

(3) When a project is designated for the fully coordinated permit process, the office ((~~shall~~)) must serve as the main point of contact for the project proponent and participating agencies with regard to the permit process for the project as a whole. Each participating agency must designate a single point of contact for coordinating with the office. The office ((~~shall~~)) must keep an up-to-date project management log and schedule illustrating required procedural steps in the permitting process, and highlighting substantive issues as appropriate that must be resolved in order for the project to move forward. In carrying out these responsibilities, the office ((~~shall~~)) must:

(a) Ensure that the project proponent has been informed of all the information needed to apply for the permits that are included in the coordinated permit process;

(b) Coordinate the timing of review for those permits by the respective participating permit agencies;

(c) Facilitate communication between project proponents, consultants, and agency staff to promote timely permit decisions;

(d) Assist in resolving any conflict or inconsistency among the permit requirements and conditions that are expected to be imposed by the participating permit agencies; and

(e) Make contact, at least once, with any local, tribal, or federal jurisdiction that is responsible for issuing a permit for the project and invite them to participate in the coordinated permit process or to receive periodic updates in the project.

(4) Within thirty days, or longer with agreement of the project proponent, of the date that the office designates a project for the fully coordinated permit process, it shall convene a work plan meeting with the project proponent and the participating permit agencies to develop a coordinated permit process schedule. The meeting agenda ((~~shall~~)) may include ((~~at least~~)) any of the following:

(a) Review of the permits that are required for the project;

(b) A review of the permit application forms and other application requirements of the agencies that are participating in the coordinated permit process;

(c) An estimation of the timelines that will be used by each participating permit agency to make permit decisions, including the estimated time periods required to determine if the permit applications are complete and to review or respond to each application or submittal of new information.

(i) The estimation must also include the estimated number of revision cycles for the project, or the typical number of revision cycles for projects of similar size and complexity.

(ii) In the development of this timeline, full attention ((~~shall~~)) must be given to achieving the maximum efficiencies possible through concurrent studies and consolidated applications, hearings, and comment periods.

(iii) Estimated action or response times for activities of the office that are required before or trigger further action by a participant must also be included;

(d) Available information regarding the timing of any public hearings that are required to issue permits for the project and a determination of the feasibility of coordinating or consolidating any of those required public hearings; and

(e) A discussion of fee arrangements for the coordinated permit process, including an estimate of the costs allowed by statute, any reimbursable agency costs, and billing schedules, if applicable.

(5) Each agency ((~~shall~~)) must send at least one representative qualified to discuss the applicability and timelines associated with all permits administered by that agency or jurisdiction. At the request of the project proponent, the office ((~~shall~~)) must notify any relevant local or federal agency or federally recognized Indian tribe of the date of the meeting and invite that agency's participation in the process.

(6) Any accelerated time period for the consideration of a permit application ((~~shall~~)) must be consistent with any statute, rule, or regulation, or adopted state policy, standard, or guideline that requires the participation of other agencies, federally recognized Indian tribes, or interested persons in the application process.

(7) If a permit agency or the project proponent foresees, at any time, that it will be unable to meet the estimated timelines or other obligations under the agreement, it ((~~shall~~)) must notify the office of the reasons for the problem and offer potential solutions or an amended timeline for resolving the problem. The office ((~~shall~~)) must notify the participating permit agencies and the project proponent and, upon agreement of all parties, adjust the schedule, or, if necessary, schedule another work plan meeting.

(8) The project proponent may withdraw from the coordinated permit process by submitting to the office a written request that the process be terminated. Upon receipt of the request, the office ((~~shall~~)) must notify each participating permit agency that a coordinated permit process is no longer applicable to the project.

Sec. 4. RCW 43.42.070 and 2010 c 162 s 4 are each amended to read as follows:

(1) The office may enter into cost-reimbursement agreements with a project proponent to recover from the project proponent the reasonable costs incurred by the office in carrying out the provisions of ((~~RCW 43.42.050, 43.42.060, 43.42.090, and 43.42.092~~)) this chapter. The agreement must include provisions for covering the costs incurred by the permit agencies that are participating in the cost-reimbursement project and carrying out permit processing or project review tasks referenced in the cost-reimbursement agreement.

(2) The office must maintain policies or guidelines for coordinating cost-reimbursement agreements with participating agencies, project proponents, and ((~~outside~~)) independent consultants. Policies or guidelines must ensure that, in

developing cost-reimbursement agreements, conflicts of interest are eliminated. ((~~Contracts with independent consultants hired by the office under this section must be based on competitive bids that are awarded for each agreement from a prequalified consultant roster.~~)) The policies must also support effective use of cost-reimbursement resources to address staffing and capacity limitations as may be relevant within the office or participating permit agencies.

(3) For fully coordinated permit processes and priority economic recovery projects selected pursuant to this section, the office must coordinate the negotiation of all cost-reimbursement agreements executed under RCW 43.21A.690, 43.30.490, 43.70.630, 43.300.080, and 70.94.085. The office, project proponent, and ((~~the~~)) participating permit agencies must be signatories to the cost-reimbursement agreement or agreements. Each participating permit agency must manage performance of its portion of the cost-reimbursement agreement. Independent consultants hired under a cost-reimbursement agreement ((~~shall~~)) must report directly to the hiring office or participating permit agency. Any cost-reimbursement agreement must require that final decisions are made by the participating permit agency and not by a hired independent consultant.

(4) For ((~~a fully coordinated project using cost reimbursement, the office and participating permit agencies must include a cost-reimbursement work plan, including deliverables and schedules for invoicing and reimbursement in the fully coordinated project work plan described in RCW 43.42.060. Upon request, the office must verify that the agencies have met the obligations contained in the cost-reimbursement work plan and agreement. The cost-reimbursement agreement must identify the tasks of each agency and the maximum costs for work conducted under the agreement. The agreement must include a schedule that states:~~

~~(a) The estimated number of weeks for initial review of the permit application for comparable projects;~~

~~(b) The anticipated number of revision cycles;~~

~~(c) The estimated number of weeks for review of subsequent revision submittals;~~

~~(d) The estimated number of billable hours of employee time;~~

~~(e) The rate per hour; and~~

~~(f) A process for revision of the agreement if necessary.~~

~~(5) If a permit agency or the project proponent foresees, at any time, that it will be unable to meet its obligations under the cost reimbursement agreement and fully coordinated project work plan, it must notify the office and state the reasons, along with proposals for resolving the problems and potentially amending the timelines. The office must notify the participating permit agencies and the project proponent and, upon agreement of all parties, adjust the schedule, or, if necessary, coordinate revision of the cost-reimbursement agreement and fully coordinated project work plan~~)) any project using cost reimbursement, the cost-reimbursement agreement must require the office and participating permit agencies to develop and periodically update a project work plan, which the office must provide on the internet and share with each party to the agreement.

(5)(a) The cost-reimbursement agreement must identify the proposed project, the desired outcomes, and the maximum costs for work to be conducted under the agreement. The desired outcomes must refer to the decision-making

process and may not prejudge or predetermine whether decisions will be to approve or deny any required permit or other application. Each participating permit agency must agree to give priority to the cost-reimbursement project but may in no way reduce or eliminate regulatory requirements as part of the priority review.

(b) Reasonable costs are determined based on time and materials estimates with a provision for contingencies, or set as a flat fee tied to a reasonable estimate of staff hours required.

(c) The cost-reimbursement agreement may include deliverables and schedules for invoicing and reimbursement. The office may require advance payment of some or all of the agreed reimbursement, to be held in reserve and distributed to participating permit agencies and the office upon approval of invoices by the project proponent. The project proponent has thirty days to request additional information or challenge an invoice. If an invoice is challenged, the office must respond and attempt to resolve the challenge within thirty days. If the office is unable to resolve the challenge within thirty days, the challenge must be submitted to the office of financial management. A decision on such a challenge must be made by the office of financial management and approved by the director of the office of financial management and is binding on the parties.

(d) Upon request, the office must verify whether participating permit agencies have met the obligations contained in the project work plan and cost-reimbursement agreement.

(6) If a party to the cost-reimbursement agreement foresees, at any time, that it will be unable to meet its obligations under the agreement, it must notify the office and state the reasons, along with proposals for resolving the problems. The office must notify the other parties to the cost-reimbursement agreement and seek to resolve the problems by adjusting invoices, deliverables, or the project work plan, or through some other accommodation.

Sec. 5. RCW 43.42.095 and 2010 c 162 s 5 are each amended to read as follows:

The multiagency permitting team account is created in the ((~~state treasury. All receipts from solicitations authorized in RCW 43.42.092 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 covering the initial administrative costs of multiagency permitting teams and such other costs associated with the teams as may arise that are not recoverable through cost-reimbursement or cost-sharing mechanisms~~)) custody of the state treasurer. All receipts from cost-reimbursement agreements authorized in RCW 43.42.070 and solicitations authorized in RCW 43.42.092 must be deposited into the account. Expenditures from the account may be used only for covering staffing, consultant, technology, and other administrative costs of multiagency permitting teams and other costs associated with multiagency project review and management that may arise. Only the director of the office of regulatory assistance 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.

Sec. 6. RCW 43.79A.040 and 2011 1st sp.s. c 37 s 603 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the accessible communities account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the 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 county enhanced 911 excise tax account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing

commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 7. RCW 43.84.092 and 2011 1st sp.s. c 16 s 6, 2011 1st sp.s. c 7 s 22, 2011 c 369 s 6, 2011 c 339 s 1, 2011 c 311 s 9, 2011 c 272 s 3, 2011 c 120 s 3, and 2011 c 83 s 7 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, ((~~the multiagency permitting team account,~~)) 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 pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement

account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state economic development commission account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving 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.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 8.** A new section is added to chapter 43.42 RCW to read as follows:

Within available funds, the office of regulatory assistance may certify permit processes at the local level as streamlined processes. In developing the certification program, the director must work with local jurisdictions to establish

the criteria and the process for certification. Jurisdictions with permit processes certified as streamlined may receive priority in receipt of state funds for infrastructure projects.

Sec. 9. RCW 43.155.070 and 2009 c 518 s 16 are each amended to read as follows:

(1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 must have adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a loan or loan guarantee under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a loan or loan guarantee under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a loan or loan guarantee.

(3) In considering awarding loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board ((~~shall~~)) must consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The board ((~~shall~~)) must develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board ((~~shall~~)) must attempt to assure a geographical balance in assigning priorities to projects. The board ((~~shall~~)) must consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Except as otherwise conditioned by RCW 43.155.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(d) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(e) Whether the applicant's permitting process has been certified as streamlined by the office of regulatory assistance;

(f) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007;

((~~(f)~~)) (g) The cost of the project compared to the size of the local government and amount of loan money available;

((~~(g)~~)) (h) The number of communities served by or funding the project;

((~~(h)~~)) (i) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

((~~(i)~~)) (j) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

((~~(j)~~)) (k) Except as otherwise conditioned by RCW 43.155.120, and effective one calendar year following the development of model evergreen community management plans and ordinances under RCW 35.105.050, whether the entity receiving assistance has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;

((~~(k)~~)) (l) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

((~~(l)~~)) (m) Other criteria that the board considers advisable.

(5) Existing debt or financial obligations of local governments ((~~shall~~)) may not be refinanced under this chapter. Each local government applicant ((~~shall~~)) must provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before November 1st of each even-numbered year, the board ((~~shall~~)) must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list ((~~shall~~)) must include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list ((~~shall~~)) must also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(7) The board ((~~shall~~)) may not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The

legislature may remove projects from the list recommended by the board. The legislature ((~~shall~~)) may not change the order of the priorities recommended for funding by the board.

(8) Subsection (7) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

(9) Loans made for the purpose of capital facilities plans ((~~shall be~~)) are exempted from subsection (7) of this section.

(10) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

(11) After January 1, 2010, any project designed to address the effects of storm water or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 10. RCW 43.160.060 and 2008 c 327 s 5 are each amended to read as follows:

(1) The board is authorized to make direct loans to political subdivisions of the state and to federally recognized Indian tribes for the purposes of assisting the political subdivisions and federally recognized Indian tribes in financing the cost of public facilities, including development of land and improvements for public facilities, project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and the finding by the board that financial circumstances require grant assistance to enable the project to move forward. However, no more than twenty-five percent of all financial assistance approved by the board in any biennium may consist of grants to political subdivisions and federally recognized Indian tribes.

(2) Application for funds ((~~shall~~)) must be made in the form and manner as the board may prescribe. In making grants or loans the board ((~~shall~~)) must conform to the following requirements:

(((~~(1)~~))) (a) The board ((~~shall~~)) may not provide financial assistance:

(((~~(a)~~))) (i) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(((~~(b)~~))) (ii) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(((~~(c)~~))) (iii) For a project the primary purpose of which is to facilitate or promote gambling.

(((~~(d)~~))) (iv) For a project located outside the jurisdiction of the applicant political subdivision or federally recognized Indian tribe.

(((~~(2)~~))) (b) The board ((~~shall~~)) may only provide financial assistance:

((~~(a)~~)) (i) For a project demonstrating convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made that:

((~~(i)~~)) (A) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Washington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted; and

((~~(ii)~~)) (B) Will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities;

((~~(b)~~)) (ii) For a project that cannot meet the requirement of ((~~(a)~~)) (b)(i) of this subsection but is a project that:

((~~(i)~~)) (A) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Washington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted;

((~~(ii)~~)) (B) Is part of a local economic development plan consistent with applicable state planning requirements;

((~~(iii)~~)) (C) Can demonstrate project feasibility using standard economic principles; and

((~~(iv)~~)) (D) Is located in a rural community as defined by the board, or a rural county;

((~~(c)~~)) (iii) For site-specific plans, studies, and analyses that address environmental impacts, capital facilities, land use, permitting, feasibility, marketing, project engineering, design, site planning, and project debt and revenue impacts, as grants not to exceed fifty thousand dollars.

((~~(3)~~)) (c) The board ((~~shall~~)) must develop guidelines for local participation and allowable match and activities.

((~~(4)~~)) (d) An application must demonstrate local match and local participation, in accordance with guidelines developed by the board.

((~~(5)~~)) (e) An application must be approved by the political subdivision and supported by the local associate development organization or local workforce development council or approved by the governing body of the federally recognized Indian tribe.

((~~(6)~~)) (f) The board may allow de minimis general system improvements to be funded if they are critically linked to the viability of the project.

((~~(7)~~)) (g) An application must demonstrate convincing evidence that the median hourly wage of the private sector jobs created after the project is completed will exceed the countywide median hourly wage.

((~~(8)~~)) (h) The board ((~~shall~~)) must prioritize each proposed project according to:

((~~(a)~~)) (i) The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed, but also giving consideration to the unemployment rate in the area in which the jobs would be located;

((~~(b)~~)) (ii) The rate of return of the state's investment, including, but not limited to, the leveraging of private sector investment, anticipated job creation

and retention, and expected increases in state and local tax revenues associated with the project;

(((~~(c)~~))) (iii) Whether the proposed project offers a health insurance plan for employees that includes an option for dependents of employees;

(((~~(d)~~))) (iv) Whether the public facility investment will increase existing capacity necessary to accommodate projected population and employment growth in a manner that supports infill and redevelopment of existing urban or industrial areas that are served by adequate public facilities. Projects should maximize the use of existing infrastructure and provide for adequate funding of necessary transportation improvements; ((~~and~~

~~(e)~~)) (v) Whether the applicant's permitting process has been certified as streamlined by the office of regulatory assistance; and

(vi) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007.

(((~~(9)~~))) (i) A responsible official of the political subdivision or the federally recognized Indian tribe ((~~shall~~)) must be present during board deliberations and provide information that the board requests.

(3) Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

Passed by the Senate March 3, 2012.
Passed by the House March 1, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 197

[Senate Bill 6545]

DEVELOPMENTAL DISABILITIES ENDOWMENT

AN ACT Relating to transferring the powers, duties, and functions of the developmental disabilities endowment; amending RCW 43.70.733; adding new sections to chapter 43.330 RCW; creating a new section; recodifying RCW 43.70.730, 43.70.731, 43.70.732, 43.70.733, 43.70.734, 43.70.735, 43.70.736, and 43.70.737; and repealing RCW 43.330.906.

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

Sec. 1. RCW 43.70.733 and 2010 c 271 s 201 are each amended to read as follows:

The developmental disabilities endowment governing board is established to design and administer the developmental disabilities endowment. To the extent funds are appropriated for this purpose, the ((~~secretary~~)) director of the department shall provide staff and administrative support to the governing board.

(1) The governing board shall consist of seven members as follows:

(a) Three of the members, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as finance, actuarial science, management, business, or public policy.

(b) Three members of the board, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as business, developmental disabilities service design, management, or public policy, and shall be family members of persons with developmental disabilities.

(c) The seventh member of the board, who shall serve as chair of the board, shall be appointed by the remaining six members of the board.

(2) Members of the board shall serve terms of four years and may be appointed for successive terms of four years at the discretion of the appointing authority. However, the governor may stagger the terms of the initial six members of the board so that approximately one-fourth of the members' terms expire each year.

(3) Members of the board shall be compensated for their service under RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The board shall meet periodically as specified by the call of the chair, or a majority of the board.

(5) Members of the governing board and the state investment board shall not be considered an insurer of the funds or assets of the endowment trust fund or the individual trust accounts. Neither of these two boards or their members shall be liable for the action or inaction of the other.

(6) Members of the governing board and the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The department and the state investment board, respectively, may purchase liability insurance for members.

NEW SECTION. **Sec. 2.** (1) All powers, duties, and functions of the department of health pertaining to the developmental disabilities endowment are transferred to the department of commerce. All references to the director or the department of health in the Revised Code of Washington shall be construed to mean the director or the department of commerce when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of health pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of commerce. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of health in carrying out the powers, functions, and duties transferred shall be made available to the department of commerce. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of commerce.

(b) Any appropriations made to the department of health for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of commerce.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of health engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of commerce. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of commerce to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of health pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of commerce. All existing contracts and obligations shall remain in full force and shall be performed by the department of commerce.

(5) The transfer of the powers, duties, functions, and personnel of the department of health shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of health assigned to the department of commerce under this section whose positions are within an existing bargaining unit description at the department of commerce shall become a part of the existing bargaining unit at the department of commerce and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

NEW SECTION. **Sec. 3.** RCW 43.330.906 (Transfer of powers, duties, and functions pertaining to the developmental disabilities endowment) and 2010 c 271 s 204 are each repealed.

NEW SECTION. **Sec. 4.** RCW 43.70.730, 43.70.731, 43.70.732, 43.70.733, 43.70.734, 43.70.735, 43.70.736, and 43.70.737 are each recodified as sections in chapter 43.330 RCW.

Passed by the Senate February 14, 2012.
Passed by the House March 6, 2012.
Approved by the Governor March 29, 2012.
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CHAPTER 198

[Substitute Senate Bill 6581]

ACCOUNTS AND FUNDS—ELIMINATION

AN ACT Relating to eliminating accounts and funds; amending RCW 70.94.6532, 43.330.090, 43.99G.020, 28A.300.440, 82.32.393, 82.45.210, 43.79A.040, 50.04.070, 50.04.072, 50.16.010, 43.330.310, 43.99I.020, 43.99Q.130, 78.56.080, 28B.95.150, 59.22.020, 59.22.032, 59.22.034, 42.16.011, 42.16.012, 28B.109.020, 28B.109.040, 28B.133.030, and 43.31A.400; reenacting and amending RCW 43.84.092; creating a new section; repealing RCW 82.14.200, 82.14.210, 70.05.125, 43.330.092, 82.14.380, 28B.57.050, 76.09.400, 43.155.055, 43.211.050, 28A.300.445, 43.63A.760, 50.12.280, 43.79.485, 82.45.200, 90.88.060, 50.16.015, 43.43.565, 41.04.395, 43.21K.170, 77.65.230, 38.52.106, 43.176.040, 43.340.120, 43.155.100, 59.22.030,

43.72.904, 42.16.016, 42.26.010, 28B.109.050, 70.94.630, 82.32.392, 28B.109.060, 43.43.866, and 66.08.235; repealing 1997 c 149 s 707 (uncodified); repealing 2000 2nd sp.s. c 1 ss 711, 717, and 719 (uncodified); repealing 2007 c 522 s 1621 (uncodified); making an appropriation; and providing an effective date.

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

Sec. 1. RCW 70.94.6532 and 2009 c 118 s 403 are each amended to read as follows:

It is hereby declared to be the policy of this state that strong efforts should be made to minimize adverse effects on air quality from the open burning of field and turf grasses grown for seed. To such end this section is intended to promote the development of economical and practical alternate agricultural practices to such burning, and to provide for interim regulation of such burning until practical alternates are found.

(1) The department shall approve of a study or studies for the exploration and identification of economical and practical alternate agricultural practices to the open burning of field and turf grasses grown for seed. Any study conducted pursuant to this section shall be conducted by Washington State University. The university may not charge more than eight percent for administrative overhead. Prior to the issuance of any permit for such burning under RCW 70.94.6528, there shall be collected a fee not to exceed one dollar per acre of crop to be burned. Any such fees received by any authority shall be transferred to the department of ecology. The department of ecology shall deposit all such acreage fees in ((~~a special grass seed burning research account, hereby created, in the state treasury~~)) the general fund.

(2) The department shall allocate moneys annually ((~~from this account~~)) for the support of any approved study or studies as provided for in subsection (1) of this section. ((~~Whenever the department of ecology shall conclude that sufficient reasonably available alternates to open burning have been developed, and at such time as all costs of any studies have been paid, the grass seed burning research account shall be dissolved, and any money remaining therein shall revert to the general fund.~~)) The fee collected under subsection (1) of this section shall constitute the research portion of fees required under RCW 70.94.6528 for open burning of grass grown for seed.

(3) Whenever on the basis of information available to it, the department after public hearings have been conducted wherein testimony will be received and considered from interested parties wishing to testify shall conclude that any procedure, program, technique, or device constitutes a practical alternate agricultural practice to the open burning of field or turf grasses grown for seed, the department shall, by order, certify approval of such alternate. Thereafter, in any case which any such approved alternate is reasonably available, the open burning of field and turf grasses grown for seed shall be disallowed and no permit shall issue therefor.

(4) Until approved alternates become available, the department or the authority may limit the number of acres on a pro rata basis among those affected for which permits to burn will be issued in order to effectively control emissions from this source.

(5) Permits issued for burning of field and turf grasses may be conditioned to minimize emissions insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions.

(6) Every two years until grass seed burning is prohibited, Washington State University may prepare a brief report assessing the potential of the university's research to result in economical and practical alternatives to grass seed burning.

Sec. 2. RCW 43.84.092 and 2011 1st sp.s. c 16 s 6, 2011 1st sp.s. c 7 s 22, 2011 c 369 s 6, 2011 c 339 s 1, 2011 c 311 s 9, 2011 c 272 s 3, 2011 c 120 s 3, and 2011 c 83 s 7 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, ((~~the county sales and use tax equalization account,~~)) the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the

drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, ((~~the health system capacity account,~~)) the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multiagency permitting team account, 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 pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington

building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state economic development commission account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving 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.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 3. RCW 43.330.090 and 2010 1st sp.s. c 7 s 59 are each amended to read as follows:

(1) The department shall work with private sector organizations, industry and sector associations, federal agencies, state agencies that use a sector-based approach to service delivery, local governments, local associate development organizations, and higher education and training institutions in the development of industry sector-based strategies to diversify the economy, facilitate technology transfer and diffusion, and increase value-added production. The industry sectors targeted by the department may include, but are not limited to, aerospace, agriculture, food processing, forest products, marine services, health and biomedical, software, digital and interactive media, transportation and distribution, and microelectronics. The department shall, on a continuing basis, evaluate the potential return to the state from devoting additional resources to an industry sector-based approach to economic development and identifying and assisting additional sectors.

(2) The department's sector-based strategies shall include, but not be limited to, cluster-based strategies that focus on assisting regional industry sectors and related firms and institutions that meet the definition of an industry cluster in this section and based on criteria identified by the working group established in this chapter.

(3)(a) The department shall promote, market, and encourage growth in the production of films and videos, as well as television commercials within the state; to this end the department is directed to assist in the location of a film and video production studio within the state.

(b) The department may, in carrying out its efforts to encourage film and video production in the state, solicit and receive gifts, grants, funds, fees, and endowments, in trust or otherwise, from tribal, local, or other governmental entities, as well as private sources, and may expend the same or any income therefrom for the encouragement of film and video production. All revenue received for such purposes shall be deposited into the ((~~film and video promotion account created in RCW 43.330.092~~)) general fund.

(4) In assisting in the development of regional and statewide industry cluster-based strategies, the department's activities shall include, but are not limited to:

(a) Facilitating regional focus group discussions and conducting studies to identify industry clusters, appraise the current information linkages within a cluster, and identify issues of common concern within a cluster;

(b) Supporting industry and cluster associations, publications of association and cluster directories, and related efforts to create or expand the activities of industry and cluster associations;

(c) Administering a competitive grant program to fund economic development activities designed to further regional cluster growth. In administering the program, the department shall work with the economic development commission, the workforce training and education coordinating board, the state board for community and technical colleges, the employment security department, business, and labor.

(i) The department shall seek recommendations on criteria for evaluating applications for grant funds and recommend applicants for receipt of grant funds. Criteria shall include not duplicating the purpose or efforts of industry skill panels.

(ii) Applicants must include organizations from at least two counties and participants from the local business community. Eligible organizations include, but are not limited to, local governments, economic development councils, chambers of commerce, federally recognized Indian tribes, workforce development councils, and educational institutions.

(iii) Applications must evidence financial participation of the partner organizations.

(iv) Eligible activities include the formation of cluster economic development partnerships, research and analysis of economic development needs of the cluster, the development of a plan to meet the economic development needs of the cluster, and activities to implement the plan.

(v) Priority shall be given to applicants that complement industry skill panels and will use the grant funds to build linkages and joint projects.

(vi) The maximum amount of a grant is one hundred thousand dollars.

(vii) A maximum of one hundred thousand dollars total can go to King, Pierce, Kitsap, and Snohomish counties combined.

(viii) No more than ten percent of funds received for the grant program may be used by the department for administrative costs.

(5) As used in this chapter, "industry cluster" means a geographic concentration of interconnected companies in a single industry, related businesses in other industries, including suppliers and customers, and associated institutions, including government and education.

Sec. 4. RCW 43.99G.020 and 1989 1st ex.s. c 14 s 13 are each amended to read as follows:

Bonds issued under RCW 43.99G.010 are subject to the following conditions and limitations:

(1) General obligation bonds of the state of Washington in the sum of thirty-eight million fifty-four thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for grants and loans to local governments and subdivisions of the state for capital projects through the community economic revitalization board and for the department of ((~~general administration~~)) enterprise services, military department, parks and recreation commission, and department of corrections to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of ((~~general administration~~)) enterprise services, subject to legislative appropriation.

(2) General obligation bonds of the state of Washington in the sum of four million six hundred thirty-five thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the planning, design, acquisition, construction, and improvement of a Washington state agricultural trade center, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

(3) General obligation bonds of the state of Washington in the sum of twenty-five million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the department of social and health services and the department of corrections to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, and grounds, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be

deposited in the social and health services construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of social and health services, subject to legislative appropriation.

(4) General obligation bonds of the state of Washington in the sum of one million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the department of ((~~fisheries~~)) fish and wildlife to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the fisheries capital projects account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of fisheries, subject to legislative appropriation.

(5) General obligation bonds of the state of Washington in the sum of fifty-three million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for state agencies and the institutions of higher education, including the community colleges, to perform capital renewal projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the ((~~state facilities renewal account hereby created in the state treasury~~)) state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

(6) General obligation bonds of the state of Washington in the sum of twenty-two million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the University of Washington and the state community colleges to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, improving, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be

deposited in the higher education reimbursable short-term bond account hereby created in the state treasury, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the University of Washington, subject to legislative appropriation.

(7) General obligation bonds of the state of Washington in the sum of twenty-eight million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the higher education construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by Washington State University, subject to legislative appropriation.

(8) General obligation bonds of the state of Washington in the sum of seventy-five million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education, including facilities for the community college system, to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account in the state treasury and shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection.

Sec. 5. RCW 28A.300.440 and 2003 c 22 s 3 are each amended to read as follows:

(1) The natural science, wildlife, and environmental education grant program is hereby created, subject to the availability of funds ((~~in the natural science, wildlife, and environmental education partnership account~~)). The program is created to promote proven and innovative natural science, wildlife, and environmental education programs that are fully aligned with the state's essential academic learning requirements, and includes but is not limited to instruction about renewable resources, responsible use of resources, and conservation.

(2) The superintendent of public instruction shall establish and publish funding criteria for environmental, natural science, wildlife, forestry, and agricultural education grants. The office of ((~~[the]~~)) the superintendent of public instruction shall involve a cross-section of stakeholder groups to develop socially, economically, and environmentally balanced funding criteria. These criteria shall be based on compliance with the essential academic learning requirements and use methods that encourage critical thinking. The criteria must also include environmental, natural science, wildlife, forestry, and agricultural education programs with one or more of the following features:

(a) Interdisciplinary approaches to environmental, natural science, wildlife, forestry, and agricultural issues;

(b) Programs that target underserved, disadvantaged, and multicultural populations;

(c) Programs that reach out to schools across the state that would otherwise not have access to specialized environmental, natural science, wildlife, forestry, and agricultural education programs;

(d) Proven programs offered by innovative community partnerships designed to improve student learning and strengthen local communities.

(3) Eligible uses of grants include, but are not limited to:

(a) Continuing in-service and preservice training for educators with materials specifically developed to enable educators to teach essential academic learning requirements in a compelling and effective manner;

(b) Proven, innovative programs that align the basic subject areas of the common school curriculum in chapter 28A.230 RCW with the essential academic learning requirements; the basic subject areas should be integrated by using environmental education, natural science, wildlife, forestry, agricultural, and natural environment curricula to meet the needs of various learning styles; and

(c) Support and equipment needed for the implementation of the programs in this section.

(4) Grants may only be disbursed to nonprofit organizations exempt from income tax under section 501(c) of the federal internal revenue code that can provide matching funds or in-kind services.

(5) Grants may not be used for any partisan or political activities.

Sec. 6. RCW 82.32.393 and 1997 c 368 s 12 are each amended to read as follows:

If a business is allowed an exemption under RCW 82.08.810, 82.12.810, 82.08.811, 82.12.811, or 84.36.487, and the business ceases operation of the facility for which the exemption is allowed, the business shall deposit into the ((~~displaced workers account established in RCW 50.12.280~~)) general fund an amount equal to the fair market value of one-quarter of the total sulfur dioxide allowances authorized by federal law available to the facility at the time of cessation of operation of the generation facility as if the allowances were sold for a period of ten years following the time of cessation of operation of the generation facility. This section expires December 31, 2015.

Sec. 7. RCW 82.45.210 and 2006 c 312 s 2 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.~~))

Sec. 8. RCW 43.79A.040 and 2011 1st sp.s. c 37 s 603 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, ((~~the college savings program account,~~)) the Washington advanced college tuition payment program account, the accessible communities account, the community and technical college innovation account, the agricultural local fund, the American Indian

scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, ((~~the 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 county enhanced 911 excise tax account, ((~~the Washington international exchange scholarship endowment fund,~~)) the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, ((~~the sulfur dioxide abatement account,~~)) the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, and the reduced cigarette ignition propensity account((~~, and the reading achievement account~~)).

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 9. RCW 50.04.070 and 1985 ex.s. c 5 s 4 are each amended to read as follows:

"Contributions" means the money payments due to the state unemployment compensation fund as provided in RCW 50.24.010((~~, to the federal interest~~

~~payment fund under RCW 50.16.070,~~)) or to the special account in the administrative contingency fund under RCW 50.24.014.

Sec. 10. RCW 50.04.072 and 1985 ex.s. c 5 s 5 are each amended to read as follows:

The terms "contributions" and "payments in lieu of contributions" used in this title, whether singular or plural, designate the money payments to be made to the state unemployment compensation fund((~~, to the federal interest payment fund under RCW 50.16.070,~~)) or to the special account in the administrative contingency fund under RCW 50.24.014 and are deemed to be taxes due to the state of Washington.

Sec. 11. RCW 50.16.010 and 2009 c 564 s 946 are each amended to read as follows:

(1) There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund((~~,~~)) and an administrative contingency fund, ((~~and a federal interest payment fund,~~)) which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable.

(2)(a) The unemployment compensation fund shall consist of:

(i) All contributions collected under RCW 50.24.010 and payments in lieu of contributions collected pursuant to the provisions of this title;

(ii) Any property or securities acquired through the use of moneys belonging to the fund;

(iii) All earnings of such property or securities;

(iv) Any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended;

(v) All money recovered on official bonds for losses sustained by the fund;

(vi) All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended;

(vii) All money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304); and

(viii) All moneys received for the fund from any other source.

(b) All moneys in the unemployment compensation fund shall be commingled and undivided.

(3)(a) Except as provided in (b) of this subsection, the administrative contingency fund shall consist of:

(i) All interest on delinquent contributions collected pursuant to this title;

(ii) All fines and penalties collected pursuant to the provisions of this title;

(iii) All sums recovered on official bonds for losses sustained by the fund; and

(iv) Revenue received under RCW 50.24.014.

(b) All fees, fines, forfeitures, and penalties collected or assessed by a district court because of the violation of this title or rules adopted under this title shall be remitted as provided in chapter 3.62 RCW.

(c) Except as provided in (d) of this subsection, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014, shall be expended upon the direction of the

commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary solely for:

(i) The proper administration of this title and that insufficient federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(ii) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

(iii) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

(d)(i) During the 2007-2009 fiscal biennium, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended as appropriated by the legislature for: (A) The cost of the job skills or worker retraining programs at the community and technical colleges and administrative costs at the state board for community and technical colleges; and (B) reemployment services such as business and project development assistance, local economic development capacity building, and local economic development financial assistance at the department of ((~~community, trade, and economic development~~)) commerce. The remaining appropriation may be expended as specified in (c) of this subsection.

(ii) During the 2009-2011 fiscal biennium, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended by the department of social and health services as appropriated by the legislature for employment and training services and programs in the WorkFirst program, and for the administrative costs of state agencies participating in the WorkFirst program. The remaining appropriation may be expended as specified in (c) of this subsection.

(4) Money in the special account created under RCW 50.24.014(1)(a) may only be expended, after appropriation, for the purposes specified in this section and RCW 50.62.010, 50.62.020, 50.62.030, 50.24.014, 50.44.053, and 50.22.010.

Sec. 12. RCW 43.330.310 and 2010 c 187 s 2 are each amended to read as follows:

(1) The legislature establishes a comprehensive green economy jobs growth initiative based on the goal of, by 2020, increasing the number of green economy jobs to twenty-five thousand from the eight thousand four hundred green economy jobs the state had in 2004.

(2) The department, in consultation with the employment security department, the state workforce training and education coordinating board, and the state board for community and technical colleges, ((~~and the higher education~~

~~coordinating board,~~)) shall develop a defined list of terms, consistent with current workforce and economic development terms, associated with green economy industries and jobs.

(3)(a) The employment security department, in consultation with the department, the state workforce training and education coordinating board, the state board for community and technical colleges, ((~~the higher education coordinating board,~~)) Washington State University small business development center, and the Washington State University extension energy program, shall conduct labor market research to analyze the current labor market and projected job growth in the green economy, the current and projected recruitment and skill requirement of green economy industry employers, the wage and benefits ranges of jobs within green economy industries, and the education and training requirements of entry-level and incumbent workers in those industries.

(i) The employment security department shall conduct an analysis of occupations in the forest products industry to: (A) Determine key growth factors and employment projections in the industry; and (B) define the education and skill standards required for current and emerging green occupations in the industry.

(ii) The term "forest products industry" must be given a broad interpretation when implementing (a)(i) of this subsection and includes, but is not limited to, businesses that grow, manage, harvest, transport, and process forest, wood, and paper products.

(b) The University of Washington business and economic development center shall: Analyze the current opportunities for and participation in the green economy by minority and women-owned business enterprises in Washington; identify existing barriers to their successful participation in the green economy; and develop strategies with specific policy recommendations to improve their successful participation in the green economy. The research may be informed by the research of the Puget Sound regional council prosperity partnership, as well as other entities. The University of Washington business and economic development center shall report to the appropriate committees of the house of representatives and the senate on their research, analysis, and recommendations by December 1, 2008.

(4) Based on the findings from subsection (3) of this section, the employment security department, in consultation with the department and taking into account the requirements and goals of chapter 14, Laws of 2008 and other state clean energy and energy efficiency policies, shall propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green economy. The employment security department and the department shall take into account which jobs within green economy industries will be considered high-wage occupations and occupations that are part of career pathways to the same, based on family-sustaining wage and benefits ranges. These designations, and the results of the employment security department's broader labor market research, shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, and the state board for community and technical colleges((~~, and the higher education coordinating board~~)).

(5) The department shall identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270.

(6) The department, consistent with the priorities established by the state economic development commission, shall:

(a) Develop targeting criteria for existing investments, and make recommendations for new or expanded financial incentives and comprehensive strategies, to recruit, retain, and expand green economy industries and small businesses; and

(b) Make recommendations for new or expanded financial incentives and comprehensive strategies to stimulate research and development of green technology and innovation, including designating innovation partnership zones linked to the green economy.

(7) For the purposes of this section, "target populations" means (a) entry-level or incumbent workers in high-demand green industries who are in, or are preparing for, high-wage occupations; (b) dislocated workers in declining industries who may be retrained for high-wage occupations in high-demand green industries; (c) dislocated agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in high-demand green industries; (d) eligible veterans or national guard members; (e) disadvantaged populations; or (f) anyone eligible to participate in the state opportunity grant program under RCW 28B.50.271.

(8) The legislature directs the state workforce training and education coordinating board to create and pilot green industry skill panels. These panels shall consist of business representatives from: Green industry sectors, including but not limited to forest product companies, companies engaged in energy efficiency and renewable energy production, companies engaged in pollution prevention, reduction, and mitigation, and companies engaged in green building work and green transportation; labor unions representing workers in those industries or labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers for these industries; state and local veterans agencies; employer associations; educational institutions; and local workforce development councils within the region that the panels propose to operate; and other key stakeholders as determined by the applicant. Any of these stakeholder organizations are eligible to receive grants under this section and serve as the intermediary that convenes and leads the panel. Panel applicants must provide labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the state's clean energy economy as identified in this section, for high-wage occupations, or occupations that are part of career pathways to the same, within the relevant industry sector. The panel shall:

(a) Conduct labor market and industry analyses, in consultation with the employment security department, and drawing on the findings of its research when available;

(b) Plan strategies to meet the recruitment and training needs of the industry and small businesses; and

(c) Leverage and align other public and private funding sources.

(((~~(9) The green industries jobs training account is created in the state treasury. Moneys from the account must be utilized to supplement the state opportunity grant program established under RCW 28B.50.271. All receipts from appropriations directed to the account must be deposited into the account. Expenditures from the account may be used only for the activities identified in this subsection. The state board for community and technical colleges, in consultation with the state workforce training and education coordinating board, informed by the research of the employment security department and the strategies developed in this section, may authorize expenditures from the account. The state board for community and technical colleges must distribute grants from the account on a competitive basis.~~

~~(a)(i) Allowable uses of these grant funds, which should be used when other public or private funds are insufficient or unavailable, may include:~~

~~(A) Curriculum development;~~

~~(B) Transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green industries;~~

~~(C) Workforce education to target populations; and~~

~~(D) Adult basic and remedial education as necessary linked to occupation skills training.~~

~~(ii) Allowable uses of these grant funds do not include student assistance and support services available through the state opportunity grant program under RCW 28B.50.271.~~

~~(b) Applicants eligible to receive these grants may be any organization or a partnership of organizations that has demonstrated expertise in:~~

~~(i) Implementing effective education and training programs that meet industry demand; and~~

~~(ii) Recruiting and supporting, to successful completion of those training programs carried out under these grants, the target populations of workers.~~

~~(c) In awarding grants from the green industries jobs training account, the state board for community and technical colleges shall give priority to applicants that demonstrate the ability to:~~

~~(i) Use labor market and industry analysis developed by the employment security department and green industry skill panels in the design and delivery of the relevant education and training program, and otherwise utilize strategies developed by green industry skill panels;~~

~~(ii) Leverage and align existing public programs and resources and private resources toward the goal of recruiting, supporting, educating, and training target populations of workers;~~

~~(iii) Work collaboratively with other relevant stakeholders in the regional economy;~~

~~(iv) Link adult basic and remedial education, where necessary, with occupation skills training;~~

~~(v) Involve employers and, where applicable, labor unions in the determination of relevant skills and competencies and, where relevant, the validation of career pathways; and~~

~~(vi) Ensure that supportive services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the targeted population of workers.~~))

Sec. 13. RCW 43.99I.020 and 1997 c 456 s 38 are each amended to read as follows:

Bonds issued under RCW 43.99I.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion two hundred seventy-one million sixty-five thousand dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1991-93 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this ((~~subsection~~)) section shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Eight hundred thirty-five thousand dollars to the state higher education construction account created by RCW 28B.10.851;

(2) Eight hundred seventy-one million dollars to the state building construction account created by RCW 43.83.020;

(3) Two million eight hundred thousand dollars to the energy efficiency services account created by RCW 39.35C.110;

(4) ((~~Two hundred fifty-five million five hundred thousand dollars to the common school reimbursable construction account hereby created in the state treasury;~~

(~~5~~))) Ninety-eight million six hundred forty-eight thousand dollars to the higher education reimbursable construction account hereby created in the state treasury;

(((~~6~~))) (5) Three million two hundred eighty-four thousand dollars to the data processing building construction account created in RCW 43.99I.100; and

(((~~7~~))) (6) Nine hundred thousand dollars to the Washington state dairy products commission facility account created in RCW 43.99I.110.

These proceeds shall be used exclusively for the purposes specified in this ((~~subsection~~)) section, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation.

Sec. 14. RCW 43.99Q.130 and 2011 1st sp.s. c 49 s 7009 are each amended to read as follows:

(1) For the purpose of providing funds for the planning, design, construction, and other necessary costs for the rehabilitation of the state legislative building, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighty-two million five hundred ten thousand dollars or as much thereof as may be required to finance the rehabilitation and improvements to the legislative building and all costs incidental thereto. The approved rehabilitation plan includes costs associated with earthquake repairs and future earthquake mitigation and allows for associated relocation costs and the acquisition of appropriate relocation space.

Bonds authorized in this section may be sold at a price the state finance committee determines. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The proceeds of the sale of the bonds issued for the purposes of this section shall be deposited in the ((~~capitol historic district construction account hereby created in the state treasury~~)) state building construction account. These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

(2) If any bonds authorized in this chapter have not been issued by June 30, 2013, the authority of the state finance committee to issue such remaining unissued bonds shall expire June 30, 2013.

Sec. 15. RCW 78.56.080 and 1997 c 170 s 1 are each amended to read as follows:

(1) ((~~The metals mining account is created in the state treasury. Expenditures from this account are subject to appropriation. Expenditures from this account may only be used for: (a) The additional inspections of metals mining and milling operations required by RCW 78.56.070 and (b) the metals mining coordinator established in RCW 78.56.060.~~

~~(2)~~))(a) As part of its normal budget development process and in consultation with the metals mining industry, the department of ecology shall estimate the costs required for the department to meet its obligations for the additional inspections of metals mining and milling operations required by chapter 232, Laws of 1994. The department shall also estimate the cost of employing the metals mining coordinator established in RCW 78.56.060.

(b) As part of its normal budget development process and in consultation with the metals mining industry, the department of natural resources shall estimate the costs required for the department to meet its obligations for the additional inspections of metals mining and milling operations required by chapter 232, Laws of 1994.

(((~~(3)~~))) (2) Based on the cost estimates generated by the department of ecology and the department of natural resources, the department of ecology shall establish the amount of a fee to be paid by each active metals mining and milling operation regulated under this chapter. The fee shall be established at a level to fully recover the direct and indirect costs of the agency responsibilities identified in subsection (((~~(2)~~))) (1) of this section. The amount of the fee for each operation shall be proportional to the number of visits required per site. Each applicant for a metals mining and milling operation shall also be assessed the fee based on the same criterion. The department of ecology may adjust the fees established in this subsection if unanticipated activity in the industry increases or decreases the amount of funding necessary to meet agencies' inspection responsibilities.

(((~~(4)~~))) (3) The department of ecology shall collect the fees established in subsection (((~~(3)~~))) (2) of this section. All moneys from these fees shall be deposited into the ((~~metals mining account~~)) general fund.

Sec. 16. RCW 28B.95.150 and 2011 1st sp.s. c 12 s 4 are each amended to read as follows:

(1) The committee may establish a college savings program. If such a program is established, the college savings program shall be established, in such form as may be determined by the committee, to be a qualified state tuition program as defined by the internal revenue service under section 529 of the internal revenue code, and shall be administered in a manner consistent with the Washington advanced college tuition payment program. The committee, in planning and devising the program, shall consult with the state investment board, the state treasurer, the state actuary, the legislative fiscal and higher education committees, and the institutions of higher education. The governing body may, at its discretion, consult with a qualified actuarial consulting firm with appropriate expertise to evaluate such plans for periodic assessments of the program.

(2) Up to two hundred thousand dollars of administrative fees collected from guaranteed education tuition program participants may be applied as a loan to fund the development of a college savings program. This loan must be repaid with interest before the conclusion of the biennium in which the committee draws funds for this purpose from the advanced college tuition payment program account.

(3) ((~~If such a college savings program is established, the college savings program account is created in the custody of the state treasurer for the purpose of administering the college savings program. If created, the account shall be a discrete nontreasury account in the custody of the state treasurer. Interest earnings shall be retained in accordance with RCW 43.79A.040. Disbursements from the account, except for program administration, are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment provisions, but without appropriation.~~

~~(4)~~)) The committee, after consultation with the state investment board, shall determine the investment policies for the college savings program. Program contributions may be invested by the state investment board or the committee may contract with an investment company licensed to conduct business in this state to do the investing. The committee shall keep or cause to be kept full and adequate accounts and records of the assets of each individual participant in the college savings program.

((~~(5)~~)) (4) Neither the state nor any eligible educational institution may be considered or held to be an insurer of the funds or assets of the individual participant accounts in the college savings program created under this section nor may any such entity be held liable for any shortage of funds in the event that balances in the individual participant accounts are insufficient to meet the educational expenses of the institution chosen by the student for which the individual participant account was intended.

((~~(6)~~)) (5) The committee shall adopt rules to implement this section. Such rules shall include but not be limited to administration, investment management, promotion, and marketing; compliance with internal revenue service standards; application procedures and fees; start-up costs; phasing in the savings program and withdrawals therefrom; deterrents to early withdrawals and provisions for hardship withdrawals; and reenrollment in the savings program after withdrawal.

((~~(7)~~)) (6) The committee may, at its discretion, determine to cease operation of the college savings program if it determines the continuation is not

in the best interest of the state. The committee shall adopt rules to implement this section addressing the orderly distribution of assets.

Sec. 17. RCW 59.22.020 and 2011 c 158 s 6 are each amended to read as follows:

The following definitions shall apply throughout this chapter unless the context clearly requires otherwise:

(1) "Affordable" means that, where feasible, low-income residents should not pay more than thirty percent of their monthly income for housing costs.

(2) "Conversion costs" includes the cost of acquiring the mobile home park, the costs of planning and processing the conversion, the costs of any needed repairs or rehabilitation, and any expenditures required by a government agency or lender for the project.

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

(4) ((~~"Fund" or "park purchase account" means the mobile home park purchase account created pursuant to RCW 59.22.030.~~

~~(5)~~)) "Housing costs" means the total cost of owning, occupying, and maintaining a mobile home and a lot or space in a mobile home park.

((~~(6)~~)) (5) "Individual interest in a mobile home park" means any interest which is fee ownership or a lesser interest which entitles the holder to occupy a lot or space in a mobile home park for a period of not less than either fifteen years or the life of the holder. Individual interests in a mobile home park include, but are not limited to, the following:

(a) Ownership of a lot or space in a mobile home park or subdivision;

(b) A membership or shares in a stock cooperative, or a limited equity housing cooperative; or

(c) Membership in a nonprofit mutual benefit corporation which owns, operates, or owns and operates the mobile home park.

((~~(7)~~)) (6) "Landlord" shall have the same meaning as it does in RCW 59.20.030.

((~~(8)~~)) (7) "Low-income resident" means an individual or household who resided in the mobile home park prior to application for a loan pursuant to this chapter and with an annual income at or below eighty percent of the median income for the county of standard metropolitan statistical area of residence. Net worth shall be considered in the calculation of income with the exception of the resident's mobile/manufactured home which is used as their primary residence.

((~~(9)~~)) (8) "Low-income spaces" means those spaces in a mobile home park operated by a resident organization which are occupied by low-income residents.

((~~(10)~~)) (9) "Manufactured housing" means residences constructed on one or more chassis for transportation, and which bear an insignia issued by a state or federal regulatory agency indication compliance with all applicable construction standards of the United States department of housing and urban development.

((~~(11)~~)) (10) "Mobile home" shall have the same meaning as it does in RCW 43.22.335.

((~~(12)~~)) (11) "Mobile home lot" shall have the same meaning as it does in RCW 59.20.030.

((~~(13)~~)) (12) "Mobile home park" means a mobile home park, as defined in RCW 59.20.030(10), or a manufactured home park subdivision as defined by RCW 59.20.030(12) created by the conversion to resident ownership of a mobile home park.

(((~~(14)~~))) (13) "Resident organization" means a group of mobile home park residents who have formed a nonprofit corporation, cooperative corporation, or other entity or organization for the purpose of acquiring the mobile home park in which they reside and converting the mobile home park to resident ownership. The membership of a resident organization shall include at least two-thirds of the households residing in the mobile home park at the time of application for assistance from the department.

(((~~(15)~~))) (14) "Resident ownership" means, depending on the context, either the ownership, by a resident organization, as defined in this section, of an interest in a mobile home park which entitles the resident organization to control the operations of the mobile home park for a term of no less than fifteen years, or the ownership of individual interests in a mobile home park, or both.

(((~~(16)~~))) (15) "Tenant" means a person who rents a mobile home lot for a term of one month or longer and owns the mobile home on the lot.

Sec. 18. RCW 59.22.032 and 1993 c 66 s 10 are each amended to read as follows:

(1) The department may make loans ((~~from the fund~~)) to resident organizations for the purpose of financing mobile home park conversion costs. The department may only make loans to resident organizations of mobile home parks where a significant portion of the residents are low-income or infirm.

(2) The department may make loans ((~~from the fund~~)) to low-income residents of mobile home parks converted to resident ownership or which plan to convert to resident ownership. The purpose of providing loans under this subsection is to reduce the monthly housing costs for low-income residents to an affordable level. The department may establish flexible repayment terms for loans provided under this subsection if the terms are necessary to reduce the monthly housing costs for low-income residents to an affordable level, and do not represent an unacceptable risk ((~~to the security of the fund~~)). Flexible repayment terms may include, but are not limited to, graduated payment schedules with negative amortization.

Sec. 19. RCW 59.22.034 and 1993 c 66 s 11 are each amended to read as follows:

(1) Any loans granted under RCW 59.22.032 shall be for a term of no more than thirty years.

(2) The department shall establish the rate of interest to be paid on loans ((~~made from the fund~~)).

(3) The department shall obtain security for loans made under this chapter. The security may be in the form of a note, deed of trust, assignment of lease, or other form of security on real or personal property which the department determines is adequate to protect ((~~the security of the fund and~~)) the interests of the state. To the extent applicable, the documents evidencing the security shall be recorded or referenced in a recorded document in the office of the county auditor of the county in which the mobile home park is located.

(4) The department may contract with private lenders, nonprofit organizations, or units of local government to provide program administration and to service loans made under this chapter.

Sec. 20. RCW 42.16.011 and 1985 c 57 s 25 are each amended to read as follows:

A state payroll revolving account ((~~and an agency payroll revolving fund are~~)) is created in the state treasury, for the payment of compensation to employees and officers of the state and distribution of all amounts withheld therefrom pursuant to law and amounts authorized by employees to be withheld pursuant to law; also for the payment of the state's contributions for retirement and insurance and other employee benefits: PROVIDED, That the utilization of the state payroll revolving account shall be optional except for agencies whose payrolls are prepared under a centralized system established pursuant to regulations of the director of financial management((~~: PROVIDED FURTHER, That the utilization of the agency payroll revolving fund shall be optional for agencies whose operations are funded in whole or part other than by funds appropriated from the state treasury~~)).

Sec. 21. RCW 42.16.012 and 1981 c 9 s 2 are each amended to read as follows:

The amounts to be disbursed from the state payroll revolving account from time to time on behalf of agencies utilizing such account shall be transferred thereto by the state treasurer from appropriated funds properly chargeable with the disbursement for the purposes set forth in RCW 42.16.011, on or before the day prior to scheduled disbursement. ((~~The amounts to be disbursed from the agency payroll revolving fund from time to time on behalf of agencies electing to utilize such fund shall be deposited therein by such agencies from funds held by the agency pursuant to law outside the state treasury and properly chargeable with the disbursement for the purposes set forth in RCW 42.16.011, on or before the day prior to scheduled disbursement.~~))

Sec. 22. RCW 28B.109.020 and 2011 1st sp.s. c 11 s 196 are each amended to read as follows:

The Washington international exchange scholarship program is created ((~~subject to funding under RCW 28B.109.060~~)). The program shall be administered by the office. In administering the program, the office may:

(1) Convene an advisory committee that may include but need not be limited to representatives of the office of the superintendent of public instruction, the department of commerce, the secretary of state, private business, and institutions of higher education;

(2) Select students to receive the scholarship with the assistance of a screening committee composed of leaders in business, international trade, and education;

(3) Adopt necessary rules and guidelines including rules for disbursing scholarship funds to participants;

(4) Publicize the program;

(5) Solicit and accept grants and donations from public and private sources for the program;

(6) Establish and notify participants of service obligations; and

(7) Establish a formula for selecting the countries from which participants may be selected in consultation with the department of ((~~community, trade, and economic development~~)) commerce.

Sec. 23. RCW 28B.109.040 and 2011 1st sp.s. c 11 s 198 are each amended to read as follows:

If funds are available, the office shall select students yearly to receive a Washington international exchange student scholarship ((~~from moneys earned from the Washington international exchange scholarship endowment fund created in RCW 28B.109.060,~~)) from funds appropriated to the office for this purpose, or from any private donations, or from any other funds given to the office for this program.

Sec. 24. RCW 28B.133.030 and 2011 1st sp.s. c 11 s 236 are each amended to read as follows:

(((~~(1) The students with dependents grant account is created in the custody of the state treasurer. All receipts from the program shall be deposited into the account. Only the office of student financial assistance, or its designee, may authorize expenditures from the account. Disbursements from the account are exempt from appropriations and the allotment procedures under chapter 43.88 RCW.~~

~~(2)~~)) The office may solicit and receive gifts, grants, or endowments from private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the educational assistance grant program. The director, or the director's designee, may spend gifts, grants, or endowments or income from the private sources according to their terms unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560.

(((~~(3) The earnings on the account shall be used solely for the purposes in RCW 28B.133.010, except when the terms of a conditional gift of private moneys in the account require that a portion of earnings on such moneys be reinvested in the account.~~))

Sec. 25. RCW 43.31A.400 and 1991 sp.s. c 13 s 27 are each amended to read as follows:

The economic assistance authority established by section 2, chapter 117, Laws of 1972 ex. sess. as amended by section 111, chapter 34, Laws of 1975-'76 2nd ex. sess. is abolished, effective June 30, 1982. Any remaining duties of the economic assistance authority are transferred to the department of revenue on that date. ((~~The public facilities construction loan and grant revolving account within the state treasury is continued to service the economic assistance authority's loans.~~))

NEW SECTION. **Sec. 26.** The following acts or parts of acts are each repealed:

(1) RCW 82.14.200 (County sales and use tax equalization account—Allocation procedure) and 2003 1st sp.s. c 25 s 941, 1998 c 321 s 8, 1997 c 333 s 2, 1991 sp.s. c 13 s 15, 1990 c 42 s 313, 1985 c 57 s 82, 1984 c 225 s 5, 1983 c 99 s 1, & 1982 1st ex.s. c 49 s 21;

(2) RCW 82.14.210 (Municipal sales and use tax equalization account—Allocation procedure) and 2003 1st sp.s. c 25 s 942, 1996 c 64 s 1, 1991 sp.s. c 13 s 16, 1990 2nd ex.s. c 1 s 701, 1990 c 42 s 314, 1985 c 57 s 83, 1984 c 225 s 2, & 1982 1st ex.s. c 49 s 22;

(3) RCW 70.05.125 (County public health account—Distribution to local public health jurisdictions) and 2010 c 271 s 101, 2009 c 479 s 48, 1998 c 266 s 1, 1997 c 333 s 1, & 1995 1st sp.s. c 15 s 1;

(4) RCW 43.330.092 (Film and video promotion account—Promotion of film and video production industry) and 2009 c 565 s 5, 2005 c 136 s 15, & 1997 c 220 s 222;

(5) RCW 82.14.380 (Distressed county assistance account—Created—Distributions) and 2011 c 5 s 920, 1999 c 311 s 201, & 1998 c 321 s 10;

(6) RCW 28B.57.050 (Disposition of proceeds—1975 community college capital construction account, use) and 1991 sp.s. c 13 s 51, 1985 c 57 s 18, & 1975 1st ex.s. c 65 s 5;

(7) RCW 76.09.400 (Forests and fish account—Created) and 1999 sp.s. c 4 s 1402;

(8) RCW 43.155.055 (Water storage projects and water systems facilities subaccount) and 2003 c 330 s 1;

(9) RCW 43.211.050 (211 account) and 2003 c 135 s 6;

(10) RCW 28A.300.445 (Washington natural science, wildlife, and environmental education partnership account) and 2003 c 22 s 2;

(11) RCW 43.63A.760 (Airport impact mitigation account—Creation—Report) and 2010 1st sp.s. c 7 s 6 & 2003 1st sp.s. c 26 s 928;

(12) RCW 50.12.280 (Displaced workers account—Compensation and retraining after thermal electric generation facility's cessation of operation) and 1997 c 368 s 13;

(13) RCW 43.79.485 (Reading achievement account) and 2009 c 4 s 904 & 2006 c 120 s 1;

(14) RCW 82.45.200 (Real estate excise tax grant account) and 2005 c 480 s 3;

(15) RCW 90.88.060 (Hood Canal aquatic rehabilitation account) and 2006 c 366 s 1;

(16) RCW 50.16.015 (Federal interest payment fund—Establishment) and 2006 c 13 s 19;

(17) RCW 43.43.565 (Automatic fingerprint information system account) and 1986 c 196 s 2;

(18) RCW 41.04.395 (Disability accommodation revolving fund—Disbursements) and 2011 1st sp.s. c 43 s 434, 1994 sp.s. c 9 s 801, & 1987 c 9 s 2;

(19) RCW 43.21K.170 (Environmental excellence account) and 1997 c 381 s 32;

(20) RCW 77.65.230 (Surcharge on Dungeness crab-coastal fishery licenses and Dungeness crab-coastal class B fishery licenses—Dungeness crab appeals account) and 2000 c 107 s 44 & 1994 c 260 s 15;

(21) RCW 38.52.106 (Nisqually earthquake account) and 2010 2nd sp.s. c 1 s 902, 2009 c 564 s 922, 2008 c 329 s 909, 2003 1st sp.s. c 25 s 913, 2002 c 371 s 904, & 2001 c 5 s 2;

(22) RCW 43.176.040 (Small business incubator account) and 2004 c 237 s 4;

(23) RCW 43.340.120 (Tobacco securitization trust account) and 2002 c 365 s 13;

(24) RCW 43.155.100 (Water conservation account) and 2002 c 329 s 11;

(25) RCW 59.22.030 (Mobile home park purchase account) and 1991 sp.s. c 13 s 89 & 1987 c 482 s 4;

(26) RCW 43.72.904 (Health system capacity account) and 1993 c 492 s 471;

(27) RCW 42.16.016 (Cancellation of warrants—Refund of increased balance amounts in agency payroll revolving fund) and 1967 ex.s. c 25 s 7;

(28) RCW 42.26.010 (Agency vendor payment revolving fund—Created—Use) and 1969 ex.s. c 60 s 1;

(29) RCW 28B.109.050 (Washington international exchange trust fund) and 2011 1st sp.s. c 11 s 199 & 1996 c 253 s 405;

(30) RCW 70.94.630 (Sulfur dioxide abatement account—Coal-fired thermal electric generation facilities—Application—Determination and assessment of progress—Certification of pollution level—Reimbursement—Time limit for and extension of account) and 1997 c 368 s 10;

(31) RCW 82.32.392 (Certain revenues to be deposited in sulfur dioxide abatement account) and 1997 c 368 s 9;

(32) RCW 28B.109.060 (Washington international exchange scholarship endowment fund) and 2011 1st sp.s. c 11 s 200 & 1996 c 253 s 406;

(33) RCW 43.43.866 (Organized crime prosecution revolving fund) and 2009 c 560 s 25 & 1980 c 146 s 16; and

(34) RCW 66.08.235 (Liquor control board construction and maintenance account) and 2011 1st sp.s. c 50 s 961, 2011 c 5 s 918, 2005 c 151 s 4, 2002 c 371 s 918, & 1997 c 75 s 1.

NEW SECTION. **Sec. 27.** The following acts or parts of acts are each repealed:

(1) 1997 c 149 s 707 (uncodified);

(2) 2000 2nd sp.s. c 1 ss 711, 717, and 719 (uncodified); and

(3) 2007 c 522 s 1621 (uncodified).

NEW SECTION. **Sec. 28.** (1) Except as provided in RCW 43.99G.020 and 43.99Q.130 and subsection (2) of this section, any residual balance of funds remaining in any account eliminated in this act on the effective date of this section shall be transferred by the state treasurer to the state general fund.

(2) The sum of four thousand dollars from the special grass seed burning research account, not to exceed the balance in the account on the effective date of this section, is appropriated for the biennium ending June 30, 2013, to the Washington turfgrass seed commission for the purposes of the commission.

NEW SECTION. **Sec. 29.** This act takes effect July 1, 2012.

Passed by the Senate March 5, 2012.
Passed by the House March 7, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 199

[Engrossed Senate Bill 6608]

JUDICIAL STABLIZATION TRUST ACCOUNT SURCHARGES

AN ACT Relating to judicial stabilization trust account surcharges; and amending RCW 3.62.060, 36.18.018, and 36.18.020.

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

Sec. 1. RCW 3.62.060 and 2011 1st sp.s. c 44 s 4 are each amended to read as follows:

(1) Clerks of the district courts shall collect the following fees for their official services:

(a) In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of forty-three dollars plus any surcharge authorized by RCW 7.75.035. Any party filing a counterclaim, cross-claim, or third-party claim in such action shall pay to the court a filing fee of forty-three dollars plus any surcharge authorized by RCW 7.75.035. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action other than those listed.

(b) For issuing a writ of garnishment or other writ, or for filing an attorney issued writ of garnishment, a fee of twelve dollars.

(c) For filing a supplemental proceeding a fee of twenty dollars.

(d) For demanding a jury in a civil case a fee of one hundred twenty-five dollars to be paid by the person demanding a jury.

(e) For preparing a transcript of a judgment a fee of twenty dollars.

(f) For certifying any document on file or of record in the clerk's office a fee of five dollars.

(g) At the option of the district court:

(i) For preparing a certified copy of an instrument on file or of record in the clerk's office, for the first page or portion of the first page, a fee of five dollars, and for each additional page or portion of a page, a fee of one dollar;

(ii) For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed;

(iii) For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of fifty cents per page;

(iv) When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page;

(v) For copies made on a compact disc, an additional fee of twenty dollars for each compact disc.

(h) For preparing the record of a case for appeal to superior court a fee of forty dollars including any costs of tape duplication as governed by the rules of appeal for courts of limited jurisdiction (RALJ).

(i) At the option of the district court, for clerk's services such as processing ex parte orders, performing historical searches, compiling statistical reports, and conducting exceptional record searches, a fee not to exceed twenty dollars per hour or portion of an hour.

(j) For duplication of part or all of the electronic recording of a proceeding ten dollars per tape or other electronic storage medium.

(k) For filing any abstract of judgment or transcript of judgment from a municipal court or municipal department of a district court organized under the laws of this state a fee of forty-three dollars.

(l) At the option of the district court, a service fee of up to three dollars for the first page and one dollar for each additional page for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(2)(a) Until July 1, 2013, in addition to the fees required to be collected under this section, clerks of the district courts must collect a surcharge of

((~~twenty~~)) thirty dollars on all fees required to be collected under subsection (1)(a) of this section.

(b) Seventy-five percent of each surcharge collected under this subsection (2) must be remitted to the state treasurer for deposit in the judicial stabilization trust account.

(c) Twenty-five percent of each surcharge collected under this subsection (2) must be retained by the county.

(3) The fees or charges imposed under this section shall be allowed as court costs whenever a judgment for costs is awarded.

Sec. 2. RCW 36.18.018 and 2011 1st sp.s. c 44 s 3 are each amended to read as follows:

(1) State revenue collected by county clerks under subsection (2) of this section must be transmitted to the appropriate state court. The administrative office of the courts shall retain fees collected under subsection (3) of this section.

(2) For appellate review under RAP 5.1(b), two hundred fifty dollars must be charged.

(3) For all copies and reports produced by the administrative office of the courts as permitted under RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(4) Until July 1, 2013, in addition to the fee established under subsection (2) of this section, a surcharge of ((~~thirty~~)) forty dollars is established for appellate review. The county clerk shall transmit seventy-five percent of this surcharge to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county.

Sec. 3. RCW 36.18.020 and 2011 1st sp.s. c 44 s 5 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070, except as provided in subsection (5) of this section.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) In addition to any other fee required by law, the party filing the first or initial document in any civil action, including, but not limited to an action for restitution, adoption, or change of name, and any party filing a counterclaim, cross-claim, or third-party claim in any such civil action, shall pay, at the time the document is filed, a fee of two hundred dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of forty-five dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The forty-five dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial document on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the document is filed, a fee of two hundred dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of two hundred dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of fifty-three dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first document therein, a fee of two hundred dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of two hundred dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of two hundred dollars.

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972. However, no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

(4) No fee shall be collected when an abstract of judgment is filed by the county clerk of another county for the purposes of collection of legal financial obligations.

(5)(a) Until July 1, 2013, in addition to the fees required to be collected under this section, clerks of the superior courts must collect surcharges as provided in this subsection (5) of which seventy-five percent must be remitted to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county.

(b) On filing fees required to be collected under subsection (2)(b) of this section, a surcharge of ((~~twenty~~)) thirty dollars must be collected.

(c) On all filing fees required to be collected under this section, except for fees required under subsection (2)(b), (d), and (h) of this section, a surcharge of ((~~thirty~~)) forty dollars must be collected.

Passed by the Senate March 6, 2012.
Passed by the House March 7, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.

CHAPTER 200

[Engrossed House Bill 1398]

LOW-INCOME HOUSING—IMPACT FEES

AN ACT Relating to exempting low-income housing from impact fees; and amending RCW 82.02.060.

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

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

The local ordinance by which impact fees are imposed:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 201

[Substitute House Bill 1775]

JUVENILE RESTORATIVE JUSTICE PROGRAMS

AN ACT Relating to juvenile restorative justice programs; and amending RCW 13.40.020 and 13.40.080.

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

Sec. 1. RCW 13.40.020 and 2010 c 181 s 10 are each amended to read as follows:

For the purposes of this chapter:

(1) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(2) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(3) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(4) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(5) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(6) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(7) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(8) "Department" means the department of social and health services;

(9) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(10) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(11) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(12) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(13) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(17) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) $0-$500 fine;

(18) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(19) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation

officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(20) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(21) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(22) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(23) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(24) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(25) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(26) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members.

(27) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

((~~(27)~~)) (28) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

((~~(28)~~)) (29) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

((~~(29)~~)) (30) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

((~~(30)~~)) (31) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

((~~(31)~~)) (32) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

((~~(32)~~)) (33) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

((~~(33)~~)) (34) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

((~~(34)~~)) (35) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

((~~(35)~~)) (36) "Youth court" means a diversion unit under the supervision of the juvenile court.

Sec. 2. RCW 13.40.080 and 2004 c 120 s 3 are each amended to read as follows:

(1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversion unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.

(2) A diversion agreement shall be limited to one or more of the following:

(a) Community restitution not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Restitution limited to the amount of actual loss incurred by any victim;

(c) Attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions at a community agency. The educational or informational sessions may include sessions relating to respect for self, others, and authority; victim awareness; accountability; self-worth; responsibility; work ethics; good citizenship; literacy; and life skills. For

purposes of this section, "community agency" may also mean a community-based nonprofit organization, if approved by the diversion unit. The state shall not be liable for costs resulting from the diversion unit exercising the option to permit diversion agreements to mandate attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions;

(d) A fine, not to exceed one hundred dollars;

(e) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas; and

(f) Upon request of any victim or witness, requirements to refrain from any contact with victims or witnesses of offenses committed by the juvenile.

(3) Notwithstanding the provisions of subsection (2) of this section, youth courts are not limited to the conditions imposed by subsection (2) of this section in imposing sanctions on juveniles pursuant to RCW 13.40.630.

(4) In assessing periods of community restitution to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall consult with the juvenile's custodial parent or parents or guardian. To the extent possible, the court officer shall advise the victims of the juvenile offender of the diversion process, offer victim impact letter forms and restitution claim forms, and involve members of the community. Such members of the community shall meet with the juvenile and advise the court officer as to the terms of the diversion agreement and shall supervise the juvenile in carrying out its terms.

(5)(a) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the divertee.

(b) If additional time is necessary for the juvenile to complete restitution to a victim, the time period limitations of this subsection may be extended by an additional six months.

(c) If the juvenile has not paid the full amount of restitution by the end of the additional six-month period, then the juvenile shall be referred to the juvenile court for entry of an order establishing the amount of restitution still owed to the victim. In this order, the court shall also determine the terms and conditions of the restitution, including a payment plan extending up to ten years if the court determines that the juvenile does not have the means to make full restitution over a shorter period. For the purposes of this subsection (5)(c), the juvenile shall remain under the court's jurisdiction for a maximum term of ten years after the juvenile's eighteenth birthday. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may relieve the juvenile of the requirement to pay full or partial restitution if the juvenile reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a ten-year period. If the court relieves the juvenile of the requirement to pay full or partial restitution, the court may order an amount of community restitution that the court deems appropriate. The county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. A juvenile under obligation to pay restitution may petition the court for modification of the restitution order.

(6) The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(7) Divertees and potential divertees shall be afforded due process in all contacts with a diversion unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No divertee may be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the divertee;

(d) The hearing shall be conducted by the juvenile court and shall include:

(i) Opportunity to be heard in person and to present evidence;

(ii) The right to confront and cross-examine all adverse witnesses;

(iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and

(iv) Demonstration by evidence that the divertee has substantially violated the terms of his or her diversion agreement.

(e) The prosecutor may file an information on the offense for which the divertee was diverted:

(i) In juvenile court if the divertee is under eighteen years of age; or

(ii) In superior court or the appropriate court of limited jurisdiction if the divertee is eighteen years of age or older.

(8) The diversion unit shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during diversion unit hearings or negotiations.

(9) The diversion unit shall be responsible for advising a divertee of his or her rights as provided in this chapter.

(10) The diversion unit may refer a juvenile to a restorative justice program, community-based counseling, or treatment programs.

(11) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(7). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversion unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(12) When a juvenile enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

(a) The fact that a charge or charges were made;

(b) The fact that a diversion agreement was entered into;

(c) The juvenile's obligations under such agreement;

(d) Whether the alleged offender performed his or her obligations under such agreement; and

(e) The facts of the alleged offense.

(13) A diversion unit may refuse to enter into a diversion agreement with a juvenile. When a diversion unit refuses to enter a diversion agreement with a juvenile, it shall immediately refer such juvenile to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversion unit shall also immediately refer the case to the prosecuting attorney for action if such juvenile violates the terms of the diversion agreement.

(14) A diversion unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement. A diversion unit's authority to counsel and release a juvenile under this subsection includes the authority to refer the juvenile to community-based counseling or treatment programs or a restorative justice program. Any juvenile released under this subsection shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(7). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language. A juvenile determined to be eligible by a diversion unit for release as provided in this subsection shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(15) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(16) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert an unpaid fine into community restitution. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community restitution in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

(17) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a

maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section.

Passed by the House February 8, 2012.
Passed by the Senate March 1, 2012.
Approved by the Governor March 30, 2012.
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CHAPTER 202

[House Bill 2210]

SCHOOL BOARD CANDIDATES—CONTRIBUTION LIMITS

AN ACT Relating to extending contribution limits to school board candidates; and reenacting and amending RCW 42.17A.405.

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

Sec. 1. RCW 42.17A.405 and 2010 c 206 s 1 and 2010 c 204 s 602 are each reenacted and amended to read as follows:

(1) The contribution limits in this section apply to:

(a) Candidates for legislative office;

(b) Candidates for state office other than legislative office;

(c) Candidates for county office;

(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) Candidates for city council office;

(f) Candidates for mayoral office;

(g) Candidates for school board office;

(h) Persons holding an office in (a) through ((~~(f)~~)) (g) 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;

((~~(h)~~)) (i) Caucus political committees;

((~~(i)~~)) (j) 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 legislative office, county office, city council office, ((~~or~~)) mayoral office, or school board office that in the aggregate exceed eight hundred dollars or to a candidate for a public office in a special purpose district or a state office other than a legislative office that in the aggregate exceed one thousand six 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.

(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, a city official, a school board member, 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, city official, school board member, or public official in a special purpose district during a recall campaign that in the aggregate exceed eight hundred dollars if for a legislative office, county office, school board office, or city office, or one thousand six hundred dollars if for a special purpose district office or a state office other than a legislative office.

(4)(a) Notwithstanding subsection (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) eighty 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) forty 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 forty cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, city official, school board member, 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, city official, school board member, or a public official in a special purpose district during a recall campaign that in the aggregate exceed (i) eighty 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) forty 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 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 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 forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(6) For purposes of determining contribution limits under subsections (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.

(7) Notwithstanding subsections (2) through (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 eight hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed four thousand dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17A.125, 42.17A.405 through 42.17A.415, 42.17A.450 through 42.17A.495, 42.17A.500, 42.17A.560, and 42.17A.565, a contribution to the authorized political committee of a candidate or of 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 official.

(9) A contribution received within the twelve-month period after a recall election concerning 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.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17A.125, 42.17A.405 through 42.17A.415, 42.17A.450 through 42.17A.495, 42.17A.500, 42.17A.560, and 42.17A.565 apply to a special election conducted to fill a vacancy in 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.

(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 state office 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.

(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 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 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 official.

(14) No person may accept contributions that exceed the contribution limitations provided in this section.

(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;

(b) An expenditure by a political committee for its own internal organization or fund-raising without direct association with individual candidates; or

(c) An expenditure or contribution for independent expenditures as defined in RCW 42.17A.005 or electioneering communications as defined in RCW 42.17A.005.

Passed by the House January 27, 2012.
Passed by the Senate March 1, 2012.
Approved by the Governor March 30, 2012.
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CHAPTER 203

[Substitute House Bill 2261]

CHARITABLE DONATIONS—EYE GLASSES AND HEARING INSTRUMENTS

AN ACT Relating to charitable donations of eye glasses and hearing instruments; and adding a new section to chapter 4.24 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24 RCW to read as follows:

(1) A charitable organization is not liable for any civil damages arising out of any act or omission, other than acts or omissions constituting gross negligence or willful or wanton misconduct, associated with providing previously owned eyeglasses or hearing instruments to a person if:

(a) The person is at least fourteen years of age; and

(b) The eyeglasses or hearing instruments are provided to the person without compensation or the expectation of compensation.

(2) The immunity provided by subsection (1) of this section applies to eyeglasses only if the eyeglasses are provided by a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW, or an optician licensed under chapter 18.34 RCW who has:

(a) Personally examined the person who will receive the eyeglasses; or

(b) Personally consulted with the licensed physician, osteopathic physician, or optometrist who examined the person who will receive the eyeglasses.

(3) The immunity provided by subsection (1) of this section applies to eyeglasses if the eyeglasses are provided by a physician's or optician's optical assistant who has personally consulted with the licensed physician, osteopathic

physician, or optometrist who examined the person who will receive the eyeglasses.

(4) The immunity provided by subsection (1) of this section applies to hearing instruments only if the hearing instruments are provided by a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, or hearing health care professional licensed under chapter 18.35 RCW who has:

(a) Personally examined the person who will receive the hearing instruments; or

(b) Personally consulted with the licensed physician, osteopathic physician, or hearing health care professional who has examined the person who will receive the hearing instruments.

(5) For purposes of this section, "charitable organization" means an organization:

(a) That regularly engages in or provides financial support for some form of benevolent or charitable activity with the purpose of doing good to others rather than for the convenience of its members;

(b) In which no part of the organization's income is distributable to its members, directors, or officers; and

(c) In which no member, director, officer, agent, or employee is paid, or directly receives, in the form of salary or other compensation, an amount beyond that which is just and reasonable compensation commonly paid for such services rendered and which has been fixed and approved by the members, directors, or other governing body of the organization.

Passed by the House March 5, 2012.
Passed by the Senate March 2, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 204

[Substitute House Bill 2263]

CHILD WELFARE SYSTEM—REINVESTING SAVINGS

AN ACT Relating to reinvesting savings resulting from improved outcomes in the child welfare system; adding a new section to chapter 74.13 RCW; adding a new section to chapter 43.135 RCW; adding new sections to chapter 43.131 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.** (1) The legislature finds that the federal child and family services improvement and innovation act provides an important new opportunity for Washington state to flexibly use federal funding, traditionally limited to foster care, to achieve the following outcomes: Increase permanency for all infants, children, and youth by reducing the time spent in foster care placements when possible and promoting a successful transition to adulthood for older youth; increase the positive outcomes for infants, children, youth, and families in their homes and communities, including tribal communities; improve the safety and well-being of infants, children, and youth; and prevent child abuse and neglect and the reentry of infants, children, and youth into foster care.

(2) The legislature finds that the licensed out-of-home foster care caseload has declined by eighteen percent from fiscal year 2008 to fiscal year 2011. The legislature further finds that under the current system, as caseloads decline, fewer state and federal funds are available in the child welfare budget for prevention and reunification services to continue improving outcomes.

(3) The legislature recognizes the need to reinvest savings related to foster care caseload reductions into effective efforts that improve outcomes. The legislature intends to maximize limited resources by continuing to focus on efforts to improve child safety, child permanency, and child well-being in Washington state.

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW to read as follows:

(1) The child and family reinvestment account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended solely for improving outcomes related to: (a) Safely reducing entry into the foster care system and preventing reentry; (b) safely increasing reunifications; (c) achieving permanency for children unable to be reunified; and (d) improving outcomes for youth who will age out of the foster care system. Moneys may be expended for shared savings under performance-based contracts.

(2) Revenues to the child and family reinvestment account consist of: (a) Savings to the state general fund resulting from reductions in foster care caseloads and per capita costs, as calculated and transferred into the account under this section; and (b) any other public or private funds appropriated to or deposited in the account.

(3)(a) The department of social and health services, in collaboration with the office of financial management and the caseload forecast council, shall develop a methodology for calculating the savings under this section. The methodology must be used for the 2013-2015 fiscal biennium, and for each biennium thereafter. The methodology must establish a baseline for calculating savings. In developing the methodology, the department of social and health services shall incorporate the relevant requirements of any demonstration waiver granted to the state under P.L. 112-34. The savings must be based on actual caseload and per capita expenditures. By December 1, 2012, the department of social and health services shall submit the proposed methodology to the governor and the appropriate committees of the legislature. The methodology is deemed approved unless the legislature enacts legislation to modify or reject the methodology.

(b) The department of social and health services shall use the methodology established in (a) of this subsection to calculate savings to the state general fund for transfer into the child and family reinvestment account in fiscal year 2014 and each fiscal year thereafter. Savings calculated by the department under this section are not subject to RCW 43.79.460. The department shall report the amount of the state general fund savings achieved to the office of financial management and the fiscal committees of the legislature at the end of each fiscal year. The office of financial management shall provide notice to the state treasurer of the amount of state general fund savings, as calculated by the department of social and health services, for transfer into the child and family reinvestment account.

(c) Nothing in this section prohibits (i) the caseload forecast council from forecasting the foster care caseload under RCW 43.88C.010 or (ii) the department from including maintenance funding in its budget submittal for caseload costs that exceed the baseline established in (a) of this subsection.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.135 RCW to read as follows:

RCW 43.135.034(4) does not apply to the transfer established under section 2 of this act.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.131 RCW to read as follows:

The child and family reinvestment account and methodology for calculating savings as established under this act shall be terminated on June 30, 2018, as provided in section 5 of this act.

NEW SECTION. **Sec. 5.** 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, 2019:

(1) Section 1 of this act;

(2) Section 2 of this act; and

(3) Section 3 of this act.

Passed by the House March 5, 2012.

Passed by the Senate March 1, 2012.

Approved by the Governor March 30, 2012.

Filed in Office of Secretary of State March 30, 2012.

CHAPTER 205

[Engrossed Second Substitute House Bill 2264]

CHILD WELFARE SYSTEM—PERFORMANCE-BASED CONTRACTING

AN ACT Relating to performance-based contracting for certain services provided to children and families in the child welfare system; amending RCW 74.13.360, 74.13.370, 74.13.368, and 74.13.372; reenacting and amending RCW 74.13.020; adding a new chapter to Title 74 RCW; and providing an expiration date.

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

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

(a) The state of Washington and several Indian tribes in the state of Washington assume legal responsibility for abused or neglected children when their parents or caregivers are unable or unwilling to adequately provide for their safety, health, and welfare;

(b) Washington state has a strong history of partnership between the department of social and health services and contracted service providers who currently serve children and families in the child welfare system. The department and its contracted service providers have responsibility for providing services to address parenting deficiencies resulting in child maltreatment, and the needs of children impacted by maltreatment;

(c) Department caseworkers and contracted service providers each play a critical and complementary role in the child welfare system;

(d) The current system of contracting for services needed by children and families in the child welfare system is fragmented, inflexible, and lacks incentives for improving outcomes for children and families.

(2) The legislature intends:

(a) To reform the delivery of certain services to children and families in the child welfare system by creating a flexible, accountable community-based system of care that utilizes performance-based contracting, maximizes the use of evidence-based, research-based, and promising practices, and expands the capacity of community-based agencies to leverage local funding and other resources to benefit children and families served by the department;

(b) To achieve improved child safety, child permanency, including reunification, and child well-being outcomes through the collaborative efforts of the department and contracted service providers and the prioritization of these goals in performance-based contracting; and

(c) To implement performance-based contracting under this act in a manner that supports and complies with the federal and Washington state Indian child welfare act.

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

(1) "Case management" means convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the child and family, caseworker-child visits, family visits, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means:

(a) A person less than eighteen years of age; or

(b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(3) "Child-placing agency" has the same meaning as in RCW 74.15.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

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

(6) "Evidence-based" means a program or practice that is cost-effective and includes at least two randomized or statistically controlled evaluations that have demonstrated improved outcomes for its intended population.

(7) "Network administrator" means an entity that contracts with the department to provide defined services to children and families in the child welfare system through its provider network, as provided in section 3 of this act.

(8) "Performance-based contracting" means structuring all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes and linking payment for services to contractor performance.

(9) "Promising practice" means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(10) "Provider network" means those service providers who contract with a network administrator to provide services to children and families in the geographic area served by the network administrator.

(11) "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.

NEW SECTION. **Sec. 3.** (1) No later than December 1, 2013, the department shall enter into performance-based contracts for the provision of family support and related services. The department may enter into performance-based contracts for additional services, other than case management.

(2) Beginning December 1, 2013, the department may not renew its current contracts with individuals or entities for the provision of the child welfare services included in performance-based contracts under this section for services in geographic areas served by network administrators under such contracts, except as mutually agreed upon between the department and the network administrator to allow for the successful transition of services that meet the needs of children and families.

(3) The department shall conduct a procurement process to enter into performance-based contracts with one or more network administrators for family support and related services. As part of the procurement process, the department shall consult with department caseworkers, the exclusive bargaining representative for employees of the department, tribal representatives, parents who were formerly involved in the child welfare system, youth currently or previously in foster care, child welfare services researchers, and the Washington state institute for public policy to assist in identifying the categories of family support and related services that will be included in the procurement. The categories of family support and related services shall be defined no later than July 15, 2012. In identifying services, the department must review current data and research related to the effectiveness of family support and related services that mitigate child safety concerns and promote permanency, including reunification, and child well-being. Expenditures for family support and related services purchased under this section must remain within the levels appropriated in the operating budget.

(4)(a) Network administrators shall, directly or through subcontracts with service providers:

(i) Assist caseworkers in meeting their responsibility for implementation of case plans and individual service and safety plans; and

(ii) Provide the family support and related services within the categories of contracted services that are included in a child or family's case plan or individual service and safety plan within funds available under contract.

(b) While the department caseworker retains responsibility for case management, nothing in this act limits the ability of the department to continue to contract for the provision of case management services by child-placing agencies, behavioral rehabilitation services agencies, or other entities that provided case management under contract with the department prior to July 1, 2005.

(5) In conducting the procurement, the department shall actively consult with other state agencies with relevant expertise, such as the health care authority, and with philanthropic entities with expertise in performance-based contracting for child welfare services. The director of the office of financial management must approve the request for proposal prior to its issuance.

(6) The procurement process must be developed and implemented in a manner that complies with applicable provisions of intergovernmental agreements between the state of Washington and tribal governments and must provide an opportunity for tribal governments to contract for service delivery through network administrators.

(7) The procurement and resulting contracts must include, but are not limited to, the following standards and requirements:

(a) The use of family engagement approaches to successfully motivate families to engage in services and training of the network's contracted providers to apply such approaches;

(b) The use of parents and youth who are successful veterans of the child welfare system to act as mentors through activities that include, but are not limited to, helping families navigate the system, facilitating parent engagement, and minimizing distrust of the child welfare system;

(c) The establishment of qualifications for service providers participating in provider networks, such as appropriate licensure or certification, education, and accreditation by professional accrediting entities;

(d) Adequate provider capacity to meet the anticipated service needs in the network administrator's contracted service area. The network administrator must be able to demonstrate that its provider network is culturally competent and has adequate capacity to address disproportionality, including utilization of tribal and other ethnic providers capable of serving children and families of color or who need language-appropriate services;

(e) Fiscal solvency of network administrators and providers participating in the network;

(f) The use of evidence-based, research-based, and promising practices, where appropriate, including fidelity and quality assurance provisions;

(g) Network administrator quality assurance activities, including monitoring of the performance of providers in their provider network, with respect to meeting measurable service outcomes;

(h) Network administrator data reporting, including data on contracted provider performance and service outcomes; and

(i) Network administrator compliance with applicable provisions of intergovernmental agreements between the state of Washington and tribal governments and the federal and Washington state Indian child welfare act.

(8) As part of the procurement process under this section, the department shall issue the request for proposals no later than December 31, 2012. The department shall notify the apparently successful bidders no later than June 30, 2013.

(9) Performance-based payment methodologies must be used in network administrator contracting. Performance measures should relate to successful engagement by a child or parent in services included in their case plan, and resulting improvement in identified problem behaviors and interactions. For the initial three-year period of implementation of performance-based contracting, the department may transfer financial risk for the provision of services to network administrators only to the limited extent necessary to implement a performance-based payment methodology, such as phased payment for services. However, the department may develop a shared savings methodology through which the network administrator will receive a defined share of any savings that result from improved performance. If the department receives a Title IV-E waiver, the shared savings methodology must be consistent with the terms of the waiver. If a shared savings methodology is adopted, the network administrator shall reinvest the savings in enhanced services to better meet the needs of the families and children they serve.

(10) The department must actively monitor network administrator compliance with the terms of contracts executed under this section.

(11) The use of performance-based contracts under this section must be done in a manner that does not adversely affect the state's ability to continue to obtain federal funding for child welfare-related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

NEW SECTION. **Sec. 4.** (1) For those services included in contracts under section 3 of this act, the service providers must be chosen by the department caseworker from among those in the network administrator's provider network. The criteria for provider selection must include the geographic proximity of the provider to the child or family, and the performance of the provider based upon data collected and provided by the network administrator. If a reasonably qualified provider is not available through the network administrator's provider network, at the request of a department caseworker, a provider who is not currently under contract with the network administrator may be offered a provisional contract by the network administrator, pending that provider demonstrating that he or she meets applicable provider qualifications to participate in the administrator's provider network.

(2) The department shall develop a dispute resolution process to be used when the network administrator disagrees with the department caseworker's choice of a service provider due to factors such as the service provider's performance history or ability to serve culturally diverse families. The mediator or decision maker must be a neutral employee of the department who has not

been previously involved in the case. The dispute resolution process must not result in a delay of more than two business days in the receipt of needed services by the child or family.

(3) The department and network administrator shall collaborate to identify and respond to patterns or trends in service utilization that may indicate overutilization or underutilization of family support and related services, or may indicate a need to enhance service capacity.

NEW SECTION. **Sec. 5.** (1) On an annual basis, beginning in the 2015-2017 biennium, the department and contracted network administrators shall:

(a) Review and update the services offered through performance-based contracts in response to service outcome data for currently contracted services and any research that has identified new evidence-based or research-based services not included in a previous procurement; and

(b) Review service utilization and outcome data to determine whether changes are needed in procurement policies or performance-based contracts to better meet the goals established in section 1 of this act.

(2) In conducting the review under subsection (1) of this section, the department must consult with department caseworkers, the exclusive bargaining representative for employees of the department, tribal representatives, parents who were formerly involved in the child welfare system, youth currently or previously in foster care, child welfare services researchers, representatives of child welfare service providers, and the Washington state institute for public policy.

NEW SECTION. **Sec. 6.** (1) To achieve the service delivery improvements and efficiencies intended in sections 1, 3, 4, and 7 of this act and in RCW 74.13.370, and pursuant to RCW 41.06.142(3), contracting with network administrators to provide services needed by children and families in the child welfare system, pursuant to sections 3 and 4 of this act, and execution and monitoring of individual provider contracts, pursuant to section 3 of this act, are expressly mandated by the legislature and are not subject to the processes set forth in RCW 41.06.142 (1), (4), and (5).

(2) The express mandate in subsection (1) of this section is limited to those services and activities provided in sections 3 and 4 of this act. If the department includes services customarily and historically performed by department employees in the classified service in a procurement for network administrators that exceeds the scope of services or activities provided in sections 3 and 4 of this act, such contracting is not specifically mandated and will be subject to all applicable contractual and legal obligations.

NEW SECTION. **Sec. 7.** For the purposes of the provision of child welfare services by provider networks, when all other elements of the responses to any procurement under section 3 of this act are equal, private nonprofit entities and federally recognized Indian tribes located in this state must receive primary preference over private for-profit entities.

Sec. 8. RCW 74.13.360 and 2010 c 291 s 4 are each amended to read as follows:

(1) ((~~No later than July 1, 2011, the department shall convert its current contracts with providers of child welfare services into performance-based contracts. In accomplishing this conversion, the department shall decrease the~~

~~total number of contracts it uses to purchase child welfare services from providers. The conversion of contracts for the provision of child welfare services to performance-based contracts must be done in a manner that does not adversely affect the state's ability to continue to obtain federal funding for child welfare related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.~~

((~~(2)~~)) No later than December 30, ((~~2012~~)) 2015:

(a) In the demonstration sites selected under RCW 74.13.368(4)(a), child welfare services shall be provided by supervising agencies with whom the department has entered into performance-based contracts. Supervising agencies may enter into subcontracts with other licensed agencies; and

(b) Except as provided in subsection ((~~(4)~~)) (3) of this section, and notwithstanding any law to the contrary, the department may not directly provide child welfare services to families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a).

((~~(3)~~)) (2) No later than December 30, ((~~2012~~)) 2015, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department is responsible for only the following:

(a) Monitoring the quality of services for which the department contracts under this chapter;

(b) Ensuring that the services are provided in accordance with federal law and the laws of this state, including the Indian child welfare act;

(c) Providing child protection functions and services, including intake and investigation of allegations of child abuse or neglect, emergency shelter care functions under RCW 13.34.050, and referrals to appropriate providers; and

(d) Issuing licenses pursuant to chapter 74.15 RCW.

((~~(4)~~)) (3) No later than December 30, ((~~2012~~)) 2015, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department may provide child welfare services only:

(a) For the limited purpose of establishing a control or comparison group as deemed necessary by the child welfare transformation design committee, with input from the Washington state institute for public policy, to implement the demonstration sites selected and defined pursuant to RCW 74.13.368(4)(a) in which the performance in achieving measurable outcomes will be compared and evaluated pursuant to RCW 74.13.370; or

(b) In an emergency or as a provider of last resort. The department shall adopt rules describing the circumstances under which the department may provide those services. For purposes of this section, "provider of last resort" means the department is unable to contract with a private agency to provide child welfare services in a particular geographic area or, after entering into a contract with a private agency, either the contractor or the department terminates the contract.

((~~(5)~~)) (4) For purposes of this chapter, on and after September 1, 2010, performance-based contracts shall be structured to hold the supervising agencies

accountable for achieving the following goals in order of importance: Child safety; child permanency, including reunification; and child well-being.

(((~~(6)~~))) (5) A federally recognized tribe located in this state may enter into a performance-based contract with the department to provide child welfare services to Indian children whether or not they reside on a reservation. Nothing in this section prohibits a federally recognized Indian tribe located in this state from providing child welfare services to its members or other Indian children pursuant to existing tribal law, regulation, or custom, or from directly entering into agreements for the provision of such services with the department, if the department continues to otherwise provide such services, or with federal agencies.

Sec. 9. RCW 74.13.370 and 2009 c 520 s 9 are each amended to read as follows:

(1) Based upon the recommendations of the child welfare transformation design committee, including the two sets of outcomes developed by the committee under RCW 74.13.368(4)(b), the Washington state institute for public policy is to conduct a review of measurable effects achieved by the supervising agencies and compare those measurable effects with the existing services offered by the state. The report on the measurable effects shall be provided to the governor and the legislature no later than April 1, ((~~2015~~)) 2018.

(2) No later than ((~~June 30, 2011~~)) December 1, 2014, the Washington state institute for public policy shall provide the legislature and the governor an initial report on the department's conversion to the use of performance-based contracts as provided in ((~~RCW 74.13.360(1)~~)) sections 3 and 4 of this act. No later than June 30, ((~~2012~~)) 2016, the Washington state institute for public policy shall provide the governor and the legislature with a second report on the ((~~department's conversion of its contracts to performance-based contracts~~)) extent to which the use of performance-based contracting has resulted in:

(a) Increased use of evidence-based, research-based, and promising practices; and

(b) Improvements in outcomes for children, including child safety, child permanency, including reunification, and child well-being.

(3) The department and network administrators shall respond to the Washington institute for public policy's request for data and other information with which to complete these reports in a timely manner.

(4) The Washington state institute for public policy must consult with a university-based child welfare research entity to evaluate performance-based contracting.

Sec. 10. RCW 74.13.368 and 2010 c 291 s 2 are each amended to read as follows:

(1)(a) The child welfare transformation design committee is established, with members as provided in this subsection.

(i) The governor or the governor's designee;

(ii) Four private agencies that, as of May 18, 2009, provide child welfare services to children and families referred to them by the department. Two agencies must be headquartered in western Washington and two must be headquartered in eastern Washington. Two agencies must have an annual budget

of at least one million state-contracted dollars and two must have an annual budget of less than one million state-contracted dollars;

(iii) The assistant secretary of the children's administration in the department;

(iv) Two regional administrators in the children's administration selected by the assistant secretary, one from one of the department's administrative regions one or two, and one from one of the department's administrative regions three, four, five, or six;

(v) The administrator for the division of licensed resources in the children's administration;

(vi) Two nationally recognized experts in performance-based contracts;

(vii) The attorney general or the attorney general's designee;

(viii) A representative of the collective bargaining unit that represents the largest number of employees in the children's administration;

(ix) A representative from the office of the family and children's ombudsman;

(x) Four representatives from the Indian policy advisory committee convened by the department's office of Indian policy and support services;

(xi) Two currently elected or former superior court judges with significant experience in dependency matters, selected by the superior court judges' association;

(xii) One representative from partners for our children affiliated with the University of Washington school of social work;

(xiii) A member of the Washington state racial disproportionality advisory committee;

(xiv) A foster parent;

(xv) A youth currently in or a recent alumnus of the Washington state foster care system, to be designated by the cochairs of the committee; and

(xvi) A parent representative who has had personal experience with the dependency system.

(b) The president of the senate and the speaker of the house of representatives shall jointly appoint the members under (a)(ii), (xiv), and (xvi) of this subsection.

(c) The representative from partners for our children shall convene the initial meeting of the committee no later than June 15, 2009.

(d) The cochairs of the committee shall be the assistant secretary for the children's administration and another member selected by a majority vote of those members present at the initial meeting.

(2) The committee shall establish a transition plan containing recommendations to the legislature and the governor consistent with this section for the provision of child welfare services by supervising agencies pursuant to RCW 74.13.360.

(3) The plan shall include the following:

(a) A model or framework for performance-based contracts to be used by the department that clearly defines:

(i) The target population;

(ii) The referral and exit criteria for the services;

(iii) The child welfare services including the use of evidence-based services and practices to be provided by contractors;

(iv) The roles and responsibilities of public and private agency workers in key case decisions;

(v) Contract performance and outcomes, including those related to eliminating racial disparities in child outcomes;

(vi) That supervising agencies will provide culturally competent service;

(vii) How to measure whether each contractor has met the goals listed in RCW 74.13.360((~~(5)~~)) (4); and

(viii) Incentives to meet performance outcomes;

(b) ((~~A method by which the department will substantially reduce its current number of contracts for child welfare services;~~

~~(c)~~)) A method or methods by which clients will access community-based services, how private supervising agencies will engage other services or form local service networks, develop subcontracts, and share information and supervision of children;

((~~(d)~~)) (c) Methods to address the effects of racial disproportionality, as identified in the 2008 Racial Disproportionality Advisory Committee Report published by the Washington state institute for public policy in June 2008;

((~~(e)~~)) (d) Methods for inclusion of the principles and requirements of the centennial accord executed in November 2001, executed between the state of Washington and federally recognized tribes in Washington state;

((~~(f)~~)) (e) Methods for assuring performance-based contracts adhere to the letter and intent of the federal Indian child welfare act;

((~~(g)~~)) (f) Contract monitoring and evaluation procedures that will ensure that children and families are receiving timely and quality services and that contract terms are being implemented;

((~~(h)~~)) (g) A method or methods by which to ensure that the children's administration has sufficiently trained and experienced staff to monitor and manage performance-based contracts;

((~~(i)~~)) (h) A process by which to expand the capacity of supervising and other private agencies to meet the service needs of children and families in a performance-based contractual arrangement;

((~~(j)~~)) (i) A method or methods by which supervising and other private agencies can expand services in underserved areas of the state;

((~~(k)~~)) (j) The appropriate amounts and procedures for the reimbursement of supervising agencies given the proposed services restructuring;

((~~(l)~~)) (k) A method by which to access and enhance existing data systems to include contract performance information;

((~~(m)~~)) (l) A financing arrangement for the contracts that examines:

(i) The use of case rates or performance-based fee-for-service contracts that include incentive payments or payment schedules that link reimbursement to outcomes; and

(ii) Ways to reduce a contractor's financial risk that could jeopardize the solvency of the contractor, including consideration of the use of a risk-reward corridor that limits risk of loss and potential profits or the establishment of a statewide risk pool;

((~~(n)~~)) (m) A description of how the transition will impact the state's ability to obtain federal funding and examine options to further maximize federal funding opportunities and increased flexibility;

(((~~(o)~~))) (n) A review of whether current administrative staffing levels in the regions should be continued when the majority of child welfare services are being provided by supervising agencies;

(((~~(p)~~))) (o) A description of the costs of the transition, the initial start-up costs and the mechanisms to periodically assess the overall adequacy of funds and the fiscal impact of the changes, and the feasibility of the plan and the impact of the plan on department employees during the transition; and

(((~~(q)~~))) (p) Identification of any statutory and regulatory revisions necessary to accomplish the transition.

(4)(a) The committee, with the assistance of the department, shall select two demonstration sites within which to implement chapter 520, Laws of 2009. One site must be located on the eastern side of the state. The other site must be located on the western side of the state. Neither site must be wholly located in any of the department's administrative regions.

(b) The committee shall develop two sets of performance outcomes to be included in the performance-based contracts the department enters into with supervising agencies. The first set of outcomes shall be used for those cases transferred to a supervising agency over time. The second set of outcomes shall be used for new entrants to the child welfare system.

(c) The committee shall also identify methods for ensuring that comparison of performance between supervising agencies and the existing service delivery system takes into account the variation in the characteristics of the populations being served as well as historical trends in outcomes for those populations.

(5) The committee shall determine the appropriate size of the child and family populations to be provided services under performance-based contracts with supervising agencies. The committee shall also identify the time frame within which cases will be transferred to supervising agencies. The performance-based contracts entered into with supervising agencies shall encompass the provision of child welfare services to enough children and families in each demonstration site to allow for the assessment of whether there are meaningful differences, to be defined by the committee, between the outcomes achieved in the demonstration sites and the comparison sites or populations. To ensure adequate statistical power to assess these differences, the populations served shall be large enough to provide a probability greater than seventy percent that meaningful difference will be detected and a ninety-five percent probability that observed differences are not due to chance alone.

(6) The committee shall also prepare as part of the plan a recommendation as to how to implement chapter 520, Laws of 2009 so that full implementation of chapter 520, Laws of 2009 is achieved no later than December 30, ((~~2012~~)) 2015.

(7) The committee shall prepare the plan to manage the delivery of child welfare services in a manner that achieves coordination of the services and programs that deliver primary prevention services.

(8) Beginning June 30, 2009, the committee shall report quarterly to the governor and the legislative children's oversight committee established in RCW 44.04.220. From June 30, 2012, until ((~~January 1~~)) December 30, 2015, the committee need only report twice a year. The committee shall report on its progress in meeting its duties under subsections (2) and (3) of this section and on any other matters the committee or the legislative children's oversight committee

or the governor deems appropriate. The portion of the plan required in subsection (6) of this section shall be due to the legislative children's oversight committee on or before June 1, 2010. The reports shall be in written form.

(9) The committee, by majority vote, may establish advisory committees as it deems necessary.

(10) All state executive branch agencies and the agencies with whom the department contracts for child welfare services shall cooperate with the committee and provide timely information as the chair or cochairs may request. Cooperation by the children's administration must include developing and scheduling training for supervising agencies to access data and information necessary to implement and monitor the contracts.

(11) It is expected that the administrative costs for the committee will be supported through private funds.

(12) ((~~Staff support for the committee shall be provided jointly by partners for our children and legislative staff.~~

~~(13)~~)) The committee is subject to chapters 42.30 (open public meetings act) and 42.52 (ethics in public service) RCW.

(((~~(14)~~))) (13) This section expires July 1, ((~~2015~~)) 2016.

Sec. 11. RCW 74.13.372 and 2009 c 520 s 10 are each amended to read as follows:

Not later than June 1, ((~~2015~~)) 2018, the governor shall, based on the report by the Washington state institute for public policy, determine whether to expand chapter 520, Laws of 2009 to the remainder of the state or terminate chapter 520, Laws of 2009. The governor shall inform the legislature of his or her decision within seven days of the decision. The department shall, regardless of the decision of the governor regarding the delivery of child welfare services, continue to purchase services through the use of performance-based contracts.

Sec. 12. RCW 74.13.020 and 2011 c 330 s 4 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Case management" means ((~~the management of services delivered to children and families in the child welfare system, including permanency services, caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family,~~)) convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the child and family, caseworker-child visits, family visits, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means:

(a) A person less than eighteen years of age; or

(b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

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

(7) "Extended foster care services" means residential and other support services the department is authorized to provide to foster children. These services include, but are not limited to, placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(8) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(9) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(10) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(11) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(12) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(13) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services, as defined in this section. This definition is applicable on or after December 30, 2015.

NEW SECTION. **Sec. 13.** Sections 1 through 7 of this act constitute a new chapter in Title 74 RCW.

Passed by the House March 7, 2012.
Passed by the Senate March 7, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 206

[Substitute House Bill 2360]

CEMETERY AUTHORITIES AND FUNERAL ESTABLISHMENTS—
DEPOSITS AND INVESTMENTS

AN ACT Relating to deposit and investment provisions for the prearrangement trust funds of cemetery authorities and funeral establishments; and amending RCW 68.46.040 and 18.39.250.

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

Sec. 1. RCW 68.46.040 and 2005 c 365 s 128 are each amended to read as follows:

(1) All prearrangement trust funds ((~~shall~~)) must be deposited in a ((~~public depository as defined by RCW 39.58.010, in a state or federally chartered credit union, or in instruments issued or insured by any agency of the federal government~~)) commercial bank, trust company, mutual savings bank, savings and loan association, or credit union, whether state or federally chartered. Such accounts ((~~shall~~)) must be designated as the "prearrangement trust fund" by name and the particular cemetery authority for the benefit of the beneficiaries named in any prearrangement contract.

(2) All prearrangement trust funds must be invested in accordance with the provisions of RCW 11.100.020 subject to the following restrictions:

(a) No officer or director of the cemetery authority, trustee of the prearrangement trust funds, or spouse, sibling, parent, grandparent, or issue of such officer, director, or trustee, may borrow any of such funds for himself or herself, directly or indirectly;

(b) No funds may be loaned to the cemetery authority, its agents, or employees, or to any corporation, partnership, or other business entity in which the cemetery authority has any ownership interest; and

(c) No funds may be invested with persons or business entities operating in a business field directly related to cemeteries.

Sec. 2. RCW 18.39.250 and 2005 c 365 s 21 are each amended to read as follows:

(1) Any funeral establishment selling funeral merchandise or services by prearrangement funeral service contract and accepting moneys therefore ((~~shall~~)) must establish and maintain one or more prearrangement funeral service trusts under Washington state law with two or more designated trustees, for the benefit

of the beneficiary of the prearrangement funeral service contract. Funeral establishments may join with one or more other Washington state licensed funeral establishments in a "master trust" provided that each member of the "master trust" ((~~shall comply~~)) complies individually with the requirements of this chapter.

(2) Up to ten percent of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment unless otherwise provided in this chapter. If the prearrangement funeral service contract is canceled within thirty calendar days of its signing, then the purchaser ((~~shall~~)) must receive a full refund of all moneys paid under the contract.

(3) At least ninety percent of the cash purchase price of each prearrangement funeral service contract, paid in advance, excluding sales tax, shall be placed in the trust established or utilized by the funeral establishment. Deposits to the prearrangement funeral service trust ((~~shall~~)) must be made not later than the twentieth day of the month following receipt of each payment made on the last ninety percent of each prearrangement funeral service contract, excluding sales tax.

(4) All prearrangement funeral service trust moneys ((~~shall~~)) must be deposited in an insured account in a ((~~public depositary or shall~~)) commercial bank, trust company, mutual savings bank, savings and loan association, or credit union, whether state or federally chartered ((~~be invested in instruments issued or insured by any agency of the federal government~~)). The account or investments shall be designated as the prearrangement funeral service trust of the funeral establishment for the benefit of the beneficiaries named in the prearrangement funeral service contracts. The prearrangement funeral service trust shall not be considered as, or used as, an asset of the funeral establishment. All prearrangement funeral service trust moneys must be invested in accordance with the provisions of RCW 11.100.020 subject to the following restrictions:

(a) No officer or director of the funeral establishment, trustee of the prearrangement trust funds, or spouse, sibling, parent, grandparent, or issue of such officer, director, or trustee, may borrow any of such funds for himself or herself, directly or indirectly;

(b) No funds may be loaned to the funeral establishment, its agents, or employees, or to any corporation, partnership, or other business entity in which the funeral establishment has any ownership interest; and

(c) No funds may be invested with persons or business entities operating in a business field directly related to funeral homes.

(5) After deduction of reasonable fees for the administration of the trust, taxes paid or withheld, or other expenses of the trust, all interest, dividends, or growth earned by a trust ((~~shall~~)) become a part of the trust. Adequate records ((~~shall~~)) must be maintained to allocate the share of principal and interest to each contract. Fees deducted for the administration of the trust ((~~shall~~)) may not exceed one percent per year of the amount in trust. In no instance ((~~shall~~)) may the administrative charges deducted from the prearrangement funeral service trust reduce, diminish, or in any other way lessen the value of the trust so that the services or merchandise provided for under the contract are reduced, diminished, or in any other way lessened.

(6) Except as otherwise provided in this chapter, the trustees of a prearrangement funeral service trust ((~~shall~~)) must permit withdrawal of all funds deposited under a prearrangement funeral service contract, plus accruals thereon, under the following circumstances and conditions:

(a) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(b) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms.

(7) Subsequent to the thirty calendar day cancellation period provided for in this chapter, any purchaser or beneficiary who has a revocable prearrangement funeral service contract has the right to demand a refund of the amount in trust.

(8) Prearrangement funeral service contracts which have or should have an account in a prearrangement funeral service trust may be terminated by the board if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, has its prearrangement funeral service certificate of registration revoked, or for any other reason is unable to fulfill the obligations under the contract. In such event, or upon demand by the purchaser or beneficiary of the prearrangement funeral service contract, the funeral establishment ((~~shall~~)) must refund to the purchaser or beneficiary all moneys deposited in the trust and allocated to the contract unless otherwise ordered by a court of competent jurisdiction. The purchaser or beneficiary may, in lieu of a refund, elect to transfer the prearrangement funeral service contract and all amounts in trust to another funeral establishment licensed under this chapter which will agree, by endorsement to the contract, to be bound by the contract and to provide the funeral merchandise or services. Election of this option ((~~shall~~)) does not relieve the defaulting funeral establishment of its obligation to the purchaser or beneficiary for any amounts required to be, but not placed, in trust.

(9) Prior to the sale or transfer of ownership or control of any funeral establishment which has contracted for prearrangement funeral service contracts, any person, corporation, or other legal entity desiring to acquire such ownership or control ((~~shall~~)) must apply to the director in accordance with RCW 18.39.145. Persons and business entities selling or relinquishing, and persons and business entities purchasing or acquiring ownership or control of such funeral establishments ((~~shall~~)) must each verify and attest to a report showing the status of the prearrangement funeral service trust or trusts on the date of the sale. This report ((~~shall~~)) must be on a form prescribed by the board and shall be considered part of the application for a funeral establishment license. In the event of failure to comply with this subsection, the funeral establishment ((~~shall be~~)) is deemed to have gone out of business and the provisions of subsection (8) of this section ((~~shall~~)) apply.

(10) Prearrangement funeral service trust moneys ((~~shall~~)) may not be used, directly or indirectly, for the benefit of the funeral establishment or any director, officer, agent, or employee of the funeral establishment including, but not limited to, any encumbrance, pledge, or other use of prearrangement funeral service trust moneys as collateral or other security.

(11)(a) If, at the time of the signing of the prearrangement funeral service contract, the beneficiary of the trust is a recipient of public assistance as defined in RCW 74.04.005, or reasonably anticipates being so defined, the contract may provide that the trust will be irrevocable. If after the contract is entered into, the beneficiary becomes eligible or seeks to become eligible for public assistance under Title 74 RCW, the contract may provide for an election by the beneficiary, or by the purchaser on behalf of the beneficiary, to make the trust irrevocable thereafter in order to become or remain eligible for such assistance.

(b) The department of social and health services ((~~shall~~)) must notify the trustee of any prearrangement service trust that the department has a claim on the estate of a beneficiary for long-term care services. Such notice ((~~shall~~)) must be renewed at least every three years. The trustees upon becoming aware of the death of a beneficiary ((~~shall~~)) must give notice to the department of social and health services, office of financial recovery, who shall file any claim there may be within thirty days of the notice.

(12) Every prearrangement funeral service contract financed through a prearrangement funeral service trust ((~~shall~~)) must contain language which:

(a) Informs the purchaser of the prearrangement funeral service trust and the amount to be deposited in the trust;

(b) Indicates if the contract is revocable or not in accordance with subsection (11) of this section;

(c) Specifies that a full refund of all moneys paid on the contract will be made if the contract is canceled within thirty calendar days of its signing;

(d) Specifies that, in the case of cancellation by a purchaser or beneficiary eligible to cancel under the contract or under this chapter, up to ten percent of the contract amount may be retained by the seller to cover the necessary expenses of selling and setting up the contract;

(e) Identifies the trust to be used and contains information as to how the trustees may be contacted.

Passed by the House February 1, 2012.
Passed by the Senate March 1, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 207

[House Bill 2420]

INSURANCE COMMISSIONER—DIRECT PRACTICES REPORT

AN ACT Relating to a study and report concerning direct practices that the office of the insurance commissioner must provide to the legislature; and repealing RCW 48.150.120.

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

NEW SECTION. **Sec. 1.** RCW 48.150.120 (Commissioner's study—Report to legislature) and 2007 c 267 s 14 are each repealed.

Passed by the House February 14, 2012.
Passed by the Senate March 1, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 208

[Engrossed Substitute House Bill 2473]

CERTIFIED NURSING ASSISTANTS—MEDICATION ASSISTANT ENDORSEMENT

AN ACT Relating to creating a medication assistant endorsement for certified nursing assistants who work in nursing homes; amending RCW 18.88A.040, 18.88A.050, 18.88A.060, 18.88A.120, 18.88A.130, 18.88A.150, and 18.130.040; reenacting and amending RCW 18.88A.020; adding a new section to chapter 18.88A RCW; creating new sections; and providing an effective date.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that many residents of skilled nursing facilities are vulnerable and their health and well-being are dependent on their caregivers. The quality, skills, and knowledge of their caregivers are often the key to good care and the need for well-trained caregivers with diverse skill sets is growing as the state's population ages and residents' needs increase.

(2) The legislature further finds that the evidence-based practice of allowing nursing assistants certified to administer certain medications and treatments promotes quality and safety for residents in skilled nursing facilities, and that creating opportunities for career advancement and pay improvement through additional training and credentialing will help enhance the working environment for nursing assistants certified in skilled nursing facilities.

(3) The legislature further finds that creating continued opportunities for recruitment into nursing practice and career advancement for nursing assistants certified will help ensure quality care for residents, and nurse training programs should recognize the relevant training and experience obtained by these credentialed professionals.

Sec. 2. RCW 18.88A.020 and 2010 c 169 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) "Alternative training" means a nursing assistant-certified program meeting criteria adopted by the commission under RCW 18.88A.087 to meet the requirements of a state-approved nurse aide competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act.

(2) "Approved training program" means a nursing assistant-certified training program approved by the commission to meet the requirements of a state-approved nurse aide training and competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act. For community college, vocational-technical institutes, skill centers, and secondary school as defined in chapter 28B.50 RCW, nursing assistant-certified training programs shall be approved by the commission in cooperation with the board for community and technical colleges or the superintendent of public instruction.

(3) "Commission" means the Washington nursing care quality assurance commission.

(4) "Competency evaluation" means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant.

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

(6) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or other entity for delivery of health care services as defined by the commission.

(7) "Medication assistant" means a nursing assistant-certified with a medication assistant endorsement issued under section 3 of this act who is authorized, in addition to his or her duties as a nursing assistant-certified, to administer certain medications and perform certain treatments in a nursing home under the supervision of a registered nurse under section 3 of this act.

(8) "Nursing assistant" means an individual, regardless of title, who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the delivery of nursing and nursing-related activities to patients in a health care facility. The two levels of nursing assistants are:

(a) "Nursing assistant-certified," an individual certified under this chapter; and

(b) "Nursing assistant-registered," an individual registered under this chapter.

(((~~(8)~~))) (9) "Nursing home" means a nursing home licensed under chapter 18.51 RCW.

(10) "Secretary" means the secretary of health.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.88A RCW to read as follows:

(1) Beginning July 1, 2013, the secretary shall issue a medication assistant endorsement to any nursing assistant-certified who meets the following requirements:

(a) Ongoing certification as a nursing assistant-certified in good standing under this chapter;

(b) Completion of a minimum number of hours of documented work experience as a nursing assistant-certified in a long-term care setting as defined in rule by the commission;

(c) Successful completion of an education and training program approved by the commission by rule, such as the model medication assistant-certified curriculum adopted by the national council of state boards of nursing. The education and training program must include training on the specific tasks listed in subsection (2) of this section as well as training on identifying tasks that a medication assistant may not perform under subsection (4) of this section;

(d) Passage of an examination approved by the commission by rule, such as the medication aide competency examination available through the national council of state boards of nursing; and

(e) Continuing competency requirements as defined in rule by the commission.

(2) Subject to subsection (3) of this section, a medication assistant may perform the following additional tasks:

(a) The administration of medications orally, topically, and through inhalation;

(b) The performance of simple prescriber-ordered treatments, including blood glucose monitoring, noncomplex clean dressing changes, pulse oximetry reading, and oxygen administration, to be defined by the commission by rule; and

(c) The documentation of the tasks in this subsection (2) on applicable medication or treatment forms.

(3) A medication assistant may only perform the additional tasks in subsection (2) of this section:

(a) In a nursing home;

(b) Under the direct supervision of a designated registered nurse who is on-site and immediately accessible during the medication assistant's shift. The registered nurse shall assess the resident prior to the medication assistant administering medications or treatments and determine whether it is safe to administer the medications or treatments. The judgment and decision to administer medications or treatments is retained by the registered nurse; and

(c) If, while functioning as a medication assistant, the primary responsibility of the medication assistant is performing the additional tasks. The commission may adopt rules regarding the medication assistant's primary responsibilities and limiting the duties, within the scope of practice of a nursing assistant-certified, that a nursing assistant-certified may perform while functioning as a medication assistant.

(4) A medication assistant may not:

(a) Accept telephone or verbal orders from a prescriber;

(b) Calculate medication dosages;

(c) Inject any medications;

(d) Perform any sterile task;

(e) Administer medications through a tube;

(f) Administer any Schedule I, II, or III controlled substance; or

(g) Perform any task that requires nursing judgment.

(5) Nothing in this section requires a nursing home to employ a nursing assistant-certified with a medication assistant endorsement.

(6) A medication assistant is responsible and accountable for his or her specific functions.

(7) A medication assistant's employer may limit or restrict the range of functions permitted under this section, but may not expand those functions.

Sec. 4. RCW 18.88A.040 and 1991 c 16 s 4 are each amended to read as follows:

(1) No person may practice or represent himself or herself as a nursing assistant-registered by use of any title or description without being registered by the department pursuant to this chapter.

(2) After October 1, 1990, no person may by use of any title or description, practice or represent himself or herself as a nursing assistant-certified without applying for certification, meeting the qualifications, and being certified by the department pursuant to this chapter.

(3) After July 1, 2013, no person may practice, or represent himself or herself by any title or description, as a medication assistant without a medication assistant endorsement issued under section 3 of this act.

Sec. 5. RCW 18.88A.050 and 2010 c 169 s 5 are each amended to read as follows:

In addition to any other authority provided by law, the secretary has the authority to:

(1) Set all nursing assistant certification, registration, medication assistant endorsement, and renewal fees in accordance with RCW 43.70.250 and to collect and deposit all such fees in the health professions account established under RCW 43.70.320;

(2) Establish forms, procedures, and the competency evaluation necessary to administer this chapter;

(3) Hire clerical, administrative, and investigative staff as needed to implement this chapter;

(4) Issue a nursing assistant registration to any applicant who has met the requirements for registration;

(5) After January 1, 1990, issue a nursing assistant certificate to any applicant who has met the training, competency evaluation, and conduct requirements for certification under this chapter;

(6) Issue a medication assistant endorsement to any applicant who has met the requirements of section 3 of this act;

(7) Maintain the official record for the department of all applicants and persons with registrations ((~~and~~)), certificates, and medication assistant endorsements under this chapter;

(((~~(7)~~))) (8) Exercise disciplinary authority as authorized in chapter 18.130 RCW;

(((~~(8)~~))) (9) Deny registration to any applicant who fails to meet requirement for registration as a nursing assistant;

(((~~(9)~~))) (10) Deny certification to applicants who do not meet the training, competency evaluation, and conduct requirements for certification as a nursing assistant; and

(11) Deny medication assistant endorsement to applicants who do not meet the requirements of section 3 of this act.

Sec. 6. RCW 18.88A.060 and 2010 c 169 s 6 are each amended to read as follows:

In addition to any other authority provided by law, the commission may:

(1) Determine minimum nursing assistant education requirements and approve training programs;

(2) Approve education and training programs and examinations for medication assistants as provided in section 3 of this act;

(3) Define the prescriber-ordered treatments a medication assistant is authorized to perform under section 3 of this act;

(4) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, the competency evaluation for applicants for nursing assistant certification, using the same competency evaluation for all applicants, whether qualifying to take the competency evaluation under an approved training program or alternative training;

(((~~(3)~~))) (5) Establish forms and procedures for evaluation of an applicant's alternative training under criteria adopted pursuant to RCW 18.88A.087;

(((~~(4)~~))) (6) Define and approve any experience requirement for nursing assistant certification;

(((~~(5)~~))) (7) Adopt rules implementing a continuing competency evaluation program for nursing assistants; and

(((~~(6)~~))) (8) Adopt rules to enable it to carry into effect the provisions of this chapter.

Sec. 7. RCW 18.88A.120 and 1996 c 191 s 74 are each amended to read as follows:

Applications for registration ((~~and~~)), certification, and medication assistant endorsement shall be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for registration ((~~and~~)), certification, and medication assistant endorsement credentialing provided for in this chapter and chapter 18.130 RCW. Each applicant shall comply with administrative procedures, administrative requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280.

Sec. 8. RCW 18.88A.130 and 1996 c 191 s 75 are each amended to read as follows:

Registrations ((~~and~~)), certifications, and medication assistant endorsements shall be renewed according to administrative procedures, administrative requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280.

Sec. 9. RCW 18.88A.150 and 1991 c 16 s 7 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unregistered ((~~or~~)), uncertified, or unendorsed practice, issuance of certificates ((~~and~~)), registrations, and medication assistant endorsements, and the discipline of persons registered or with certificates under this chapter. The secretary shall be the disciplinary authority under this chapter.

Sec. 10. RCW 18.130.040 and 2011 c 41 s 11 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage operators and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) East Asian medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Health care assistants certified under chapter 18.135 RCW;

(xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xv) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;

(xvi) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvii) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xviii) Denturists licensed under chapter 18.30 RCW;

(xix) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xx) Surgical technologists registered under chapter 18.215 RCW;

(xxi) Recreational therapists ((~~[under chapter 18.230 RCW]~~)) under chapter 18.230 RCW;

(xxii) Animal massage practitioners certified under chapter 18.240 RCW;

(xxiii) Athletic trainers licensed under chapter 18.250 RCW;

(xxiv) Home care aides certified under chapter 18.88B RCW; and

(xxv) Genetic counselors licensed under chapter 18.290 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and licenses and registrations issued under chapter 18.260 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW; and

(xv) The board of naturopathy established in chapter 18.36A RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. **Sec. 11.** The department of health and the Washington nursing care quality assurance commission shall adopt any rules necessary to implement this act.

NEW SECTION. **Sec. 12.** Sections 2 through 10 of this act take effect July 1, 2013.

Passed by the House March 3, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 209

[House Bill 2485]

SCHOOL DISTRICTS—ELECTRONIC WARRANTS

AN ACT Relating to authorizing school districts to use electronic formats for warrants; and amending RCW 28A.330.080 and 28A.330.230.

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

Sec. 1. RCW 28A.330.080 and 1990 c 33 s 346 are each amended to read as follows:

Moneys of such school districts shall be paid out only upon orders for warrants signed by the president, or a majority of the board of directors and countersigned by the secretary: PROVIDED, That when, in the judgment of the board of directors, the orders for warrants issued by the district monthly shall have reached such numbers that the signing of each warrant by the president personally imposes too great a task on the president, the board of directors, after auditing all payrolls and bills as provided by RCW 28A.330.090, may authorize the issuing of one general certificate to the county treasurer, to be signed by the president, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn; thereupon the secretary of said board shall be authorized to draw and sign said orders for warrants. Orders for warrants and warrant registers may be sent in an electronic format and using facsimile signatures as provided under chapter 39.62 RCW.

Sec. 2. RCW 28A.330.230 and 1990 c 33 s 352 are each amended to read as follows:

Second-class school districts, subject to the approval of the superintendent of public instruction, may draw and issue warrants for the payment of moneys upon approval of a majority of the board of directors, such warrants to be signed by the chair of the board and countersigned by the secretary: PROVIDED, That when, in the judgment of the board of directors, the orders for warrants issued by the district monthly shall have reached such numbers that the signing of each warrant by the chair of the board personally imposes too great a task on the chair, the board of directors, after auditing all payrolls and bills, may authorize the issuing of one general certificate to the county treasurer, to be signed by the chair of the board, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn; thereupon the secretary of said board shall be authorized to draw and sign said orders for warrants. Orders for warrants and warrant registers may be sent in an electronic format and using facsimile signatures as provided under chapter 39.62 RCW.

Passed by the House March 5, 2012.
Passed by the Senate February 27, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 210

[Substitute House Bill 2492]

STATE BOARD OF EDUCATION—FISCAL IMPACT STATEMENTS

AN ACT Relating to requiring the state board of education to provide fiscal impact statements before making rule changes; amending RCW 34.05.320; and adding a new section to chapter 28A.305 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.305 RCW to read as follows:

(1) The state board of education must provide a school district fiscal impact statement prepared by the office of the superintendent of public instruction with the published notice of a rule-making hearing required under RCW 34.05.320 on rules proposed by the board. At the rule-making hearing, the board must also hear a presentation from the office of the superintendent of public instruction and take public testimony on the fiscal impact statement. A copy of the fiscal impact statement must be forwarded to the education committees of the legislature.

(2) The office of the superintendent of public instruction must solicit fiscal impact estimates from a representative sample of school districts across the state when preparing a fiscal impact statement.

(3) This section does not apply to the following rules:

(a) Emergency rules adopted under RCW 34.05.350;

(b) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, or rules of other Washington state agencies;

(c) Rules that adopt, amend, or repeal a procedure or practice related only to the operation of the state board of education and not to any external parties;

(d) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; or

(e) Rules the content of which is explicitly and specifically dictated by statute.

Sec. 2. RCW 34.05.320 and 2004 c 31 s 2 are each amended to read as follows:

(1) At least twenty days before the rule-making hearing at which the agency receives public comment regarding adoption of a rule, the agency shall cause notice of the hearing to be published in the state register. The publication constitutes the proposal of a rule. The notice shall include all of the following:

(a) A title, a description of the rule's purpose, and any other information which may be of assistance in identifying the rule or its purpose;

(b) Citations of the statutory authority for adopting the rule and the specific statute the rule is intended to implement;

(c) A short explanation of the rule, its purpose, and anticipated effects, including in the case of a proposal that would modify existing rules, a short description of the changes the proposal would make, and a statement of the reasons supporting the proposed action;

(d) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(e) The name of the person or organization, whether private, public, or governmental, proposing the rule;

(f) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(g) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a citation to such law or court decision;

(h) When, where, and how persons may present their views on the proposed rule;

(i) The date on which the agency intends to adopt the rule;

(j) A copy of the small business economic impact statement prepared under chapter 19.85 RCW, or a copy of the school district fiscal impact statement under section 1 of this act in the case of the state board of education, or an explanation for why the agency did not prepare the statement;

(k) A statement indicating whether RCW 34.05.328 applies to the rule adoption; and

(l) If RCW 34.05.328 does apply, a statement indicating that a copy of the preliminary cost-benefit analysis described in RCW 34.05.328(1)(c) is available.

(2)(a) Upon filing notice of the proposed rule with the code reviser, the adopting agency shall have copies of the notice on file and available for public inspection. Except as provided in (b) of this subsection, the agency shall forward three copies of the notice to the rules review committee.

(b) A pilot of at least ten agencies, including the departments of labor and industries, fish and wildlife, revenue, ecology, retirement systems, and health, shall file the copies required under this subsection, as well as under RCW 34.05.350 and 34.05.353, with the rules review committee electronically for a period of four years from June 10, 2004. The office of regulatory assistance shall negotiate the details of the pilot among the agencies, the legislature, and the code reviser.

(3) No later than three days after its publication in the state register, the agency shall cause either a copy of the notice of proposed rule adoption, or a summary of the information contained on the notice, to be mailed to each person, city, and county that has made a request to the agency for a mailed copy of such notices. An agency may charge for the actual cost of providing a requesting party mailed copies of these notices.

(4) In addition to the notice required by subsections (1) and (2) of this section, an institution of higher education shall cause the notice to be published in the campus or standard newspaper of the institution at least seven days before the rule-making hearing.

Passed by the House February 9, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 211

[House Bill 2523]

INSURERS AND INSURANCE PRODUCTS

AN ACT Relating to insurers and insurance products; amending RCW 4.28.080, 48.05.440, 48.06.040, 48.17.010, 48.38.010, 48.38.020, 48.38.050, 48.43.310, 48.85.010, 48.85.020, 48.125.050, 48.17.380, 43.70.235, 48.20.435, 48.43.018, 48.44.215, 48.46.325, 48.43.530, 48.43.535, 48.46.030, 48.46.040, 48.41.110, and 48.43.510; reenacting and amending RCW 48.43.005 and 48.46.020; and repealing RCW 48.19.450.

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

Sec. 1. RCW 4.28.080 and 2011 c 47 s 1 are each amended to read as follows:

Service made in the modes provided in this section is personal service. The summons shall be served by delivering a copy thereof, as follows:

(1) If the action is against any county in this state, to the county auditor or, during normal office hours, to the deputy auditor, or in the case of a charter county, summons may be served upon the agent, if any, designated by the legislative authority.

(2) If against any town or incorporated city in the state, to the mayor, city manager, or, during normal office hours, to the mayor's or city manager's designated agent or the city clerk thereof.

(3) If against a school or fire district, to the superintendent or commissioner thereof or by leaving the same in his or her office with an assistant superintendent, deputy commissioner, or business manager during normal business hours.

(4) If against a railroad corporation, to any station, freight, ticket or other agent thereof within this state.

(5) If against a corporation owning or operating sleeping cars, or hotel cars, to any person having charge of any of its cars or any agent found within the state.

(6) If against a domestic insurance company, to any agent authorized by such company to solicit insurance within this state.

(7)(a) If against an ((~~unauthorized~~)) authorized foreign or alien insurance company, as provided in RCW 48.05.200.

(b) If against an unauthorized insurer, as provided in RCW 48.05.215 and 48.15.150.

(c) If against a reciprocal insurer, as provided in RCW 48.10.170.

(d) If against a nonresident surplus line broker, as provided in RCW 48.15.073.

(e) If against a nonresident insurance producer or title insurance agent, as provided in RCW 48.17.173.

(f) If against a nonresident adjuster, as provided in RCW 48.17.380.

(g) If against a fraternal benefit society, as provided in RCW 48.36A.350.

(h) If against a nonresident reinsurance intermediary, as provided in RCW 48.94.010.

(i) If against a nonresident life settlement provider, as provided in RCW 48.102.011.

(j) If against a nonresident life settlement broker, as provided in RCW 48.102.021.

(k) If against a service contract provider, as provided in RCW 48.110.030.

(l) If against a protection product guarantee provider, as provided in RCW 48.110.055.

(m) If against a discount plan organization, as provided in RCW 48.155.020.

(8) If against a company or corporation doing any express business, to any agent authorized by said company or corporation to receive and deliver express matters and collect pay therefor within this state.

(9) If against a company or corporation other than those designated in subsections (1) through (8) of this section, to the president or other head of the company or corporation, the registered agent, secretary, cashier or managing agent thereof or to the secretary, stenographer or office assistant of the president or other head of the company or corporation, registered agent, secretary, cashier or managing agent.

(10) If against a foreign corporation or nonresident joint stock company, partnership or association doing business within this state, to any agent, cashier or secretary thereof.

(11) If against a minor under the age of fourteen years, to such minor personally, and also to his or her father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he or she resides, or in whose service he or she is employed, if such there be.

(12) If against any person for whom a guardian has been appointed for any cause, then to such guardian.

(13) If against a foreign or alien steamship company or steamship charterer, to any agent authorized by such company or charterer to solicit cargo or passengers for transportation to or from ports in the state of Washington.

(14) If against a self-insurance program regulated by chapter 48.62 RCW, as provided in chapter 48.62 RCW.

(15) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his or her usual abode with some person of suitable age and discretion then resident therein.

(16) In lieu of service under subsection (15) of this section, where the person cannot with reasonable diligence be served as described, the summons

may be served as provided in this subsection, and shall be deemed complete on the tenth day after the required mailing: By leaving a copy at his or her usual mailing address with a person of suitable age and discretion who is a resident, proprietor, or agent thereof, and by thereafter mailing a copy by first-class mail, postage prepaid, to the person to be served at his or her usual mailing address. For the purposes of this subsection, "usual mailing address" does not include a United States postal service post office box or the person's place of employment.

Sec. 2. RCW 48.05.440 and 2006 c 25 s 6 are each amended to read as follows:

(1) "Company action level event" means any of the following events:

(a) The filing of an RBC report by an insurer indicating that:

(i) The insurer's total adjusted capital is greater than or equal to its regulatory action level RBC, but less than its company action level RBC;

(ii) If a life and disability insurer, the insurer has total adjusted capital that is greater than or equal to its company action level RBC, but less than the product of its authorized control level RBC and ((~~2.5~~)) 3 and has a negative trend; or

(iii) If a property and casualty insurer, the insurer has total adjusted capital that is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0 and met the trend test determined in accordance with the trend test calculation included in the RBC instructions;

(b) The notification by the commissioner to the insurer of an adjusted RBC report that indicates an event in (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under RCW 48.05.460; or

(c) If, under RCW 48.05.460, an insurer challenges an adjusted RBC report that indicates an event in (a) of this subsection, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(2) In the event of a company action level event, the insurer shall prepare and submit to the commissioner an RBC plan that:

(a) Identifies the conditions that contribute to the company action level event;

(b) Contains proposals of corrective actions that the insurer intends to take and would be expected to result in the elimination of the company action level event;

(c) Provides projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, and surplus. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense, and benefit component;

(d) Identifies the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions; and

(e) Identifies the quality of, and problems associated with, the insurer's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case.

(3) The RBC plan shall be submitted:

(a) Within forty-five days of the company action level event; or

(b) If the insurer challenges an adjusted RBC report under RCW 48.05.460, within forty-five days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(4) Within sixty days after the submission by an insurer of an RBC plan to the commissioner, the commissioner shall notify the insurer whether the RBC plan may be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the RBC plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions that will render the RBC plan satisfactory. Upon notification from the commissioner, the insurer shall prepare a revised RBC plan, that may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised RBC plan to the commissioner:

(a) Within forty-five days after the notification from the commissioner; or

(b) If the insurer challenges the notification from the commissioner under RCW 48.05.460, within forty-five days after a notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(5) In the event of a notification by the commissioner to an insurer that the insurer's RBC plan or revised RBC plan is unsatisfactory, the commissioner may, subject to the insurer's rights to a hearing under RCW 48.05.460, specify in the notification that the notification constitutes a regulatory action level event.

(6) Every domestic insurer that files an RBC plan or revised RBC plan with the commissioner shall file a copy of the RBC plan or revised RBC plan with the insurance commissioner in any state in which the insurer is authorized to do business if:

(a) The state has an RBC provision substantially similar to RCW 48.05.465(1); and

(b) The insurance commissioner of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the RBC plan or revised RBC plan in that state no later than the later of:

(i) Fifteen days after the receipt of notice to file a copy of its RBC plan or revised plan with the state; or

(ii) The date on which the RBC plan or revised RBC plan is filed under subsections (3) and (4) of this section.

Sec. 3. RCW 48.06.040 and 2002 c 227 s 1 are each amended to read as follows:

To apply for a solicitation permit the person shall:

(1) File with the commissioner a request showing:

(a) Name, type, and purpose of insurer, corporation, or syndicate proposed to be formed;

(b) ((~~Names, addresses, fingerprints for submission to the Washington state patrol, the federal bureau of investigation, and any governmental agency or entity authorized to receive this information for a state and national criminal history background check, and business records of each person associated or to be associated in the formation of the proposed insurer, corporation, or syndicate~~)) Biographical reports on forms prescribed by the national association of insurance commissioners evidencing the general trustworthiness and competence of each individual who is serving or who will serve as an officer,

director, trustee, employee, or fiduciary of the insurer, corporation, or syndicate to be formed;

(c) Third-party verification reports from a vendor authorized by the national association of insurance commissioners to perform a state, national, and international background history check of any person who exercises control over the financial dealings and operations of the insurer, corporation, or syndicate;

(((~~(e)~~))) (d) Full disclosure of the terms of all understandings and agreements existing or proposed among persons so associated relative to the proposed insurer, corporation, or syndicate, or the formation thereof;

(((~~(d)~~))) (e) The plan according to which solicitations are to be made; and

(((~~(e)~~))) (f) Additional information as the commissioner may reasonably require.

(2) File with the commissioner:

(a) Original and copies in triplicate of proposed articles of incorporation, or syndicate agreement; or, if the proposed insurer is a reciprocal, original and duplicate of the proposed subscribers' agreement and attorney-in-fact agreement;

(b) Original and duplicate copy of any proposed bylaws;

(c) Copy of any security proposed to be issued and copy of application or subscription agreement for that security;

(d) Copy of any insurance contract proposed to be offered and copy of application for that contract;

(e) Copy of any prospectus, advertising, or literature proposed to be used; and

(f) Copy of proposed form of any escrow agreement required.

(3) Deposit with the commissioner the fees required by law to be paid for the application including fees associated with the state and national criminal history background check, for filing of the articles of incorporation of an insurer, for filing the subscribers' agreement and attorney-in-fact agreement if the proposed insurer is a reciprocal, for the solicitation permit, if granted, and for filing articles of incorporation with the secretary of state.

Sec. 4. RCW 48.17.010 and 2010 c 67 s 2 are each amended to read as follows:

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

(1) "Adjuster" means any person who, for compensation as an independent contractor or as an employee of an independent contractor, or for fee or commission, investigates or reports to the adjuster's principal relative to claims arising under insurance contracts, on behalf solely of either the insurer or the insured. An attorney-at-law who adjusts insurance losses from time to time incidental to the practice of his or her profession or an adjuster of marine losses is not deemed to be an "adjuster" for the purpose of this chapter. A salaried employee of an insurer or of a managing general agent is not deemed to be an "adjuster" for the purpose of this chapter, except when acting as a crop adjuster.

(a) "Independent adjuster" means an adjuster representing the interests of the insurer.

(b) "Public adjuster" means an adjuster employed by and representing solely the financial interests of the insured named in the policy.

(c) "Crop adjuster" means an adjuster, including (i) an independent adjuster, (ii) a public adjuster, and (iii) an employee of an insurer or managing general

agent, who acts as an adjuster for claims arising under crop insurance. A salaried employee of an insurer or of a managing general agent who is certified by a crop adjuster program approved by the risk management agency of the United States department of agriculture is not a "crop adjuster" for the purposes of this chapter. Proof of certification must be provided to the commissioner upon request.

(2) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(3) "Crop insurance" means insurance coverage for damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils provided by the private insurance market, or multiple peril crop insurance reinsured by the federal crop insurance corporation, including but not limited to revenue insurance.

(4) "Home state" means the District of Columbia and any state or territory of the United States or province of Canada in which an insurance producer or adjuster maintains the insurance producer's or adjuster's principal place of residence or principal place of business, and is licensed to act as an insurance producer or adjuster.

(5) "Insurance education provider" means any insurer, health care service contractor, health maintenance organization, professional association, educational institution created by Washington statutes, or vocational school licensed under Title 28C RCW, or independent contractor to which the commissioner has granted authority to conduct and certify completion of a course satisfying the insurance education requirements of RCW 48.17.150.

(6) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance. "Insurance producer" does not include title insurance agents as defined in subsection (16) of this section or surplus line brokers licensed under chapter 48.15 RCW.

(7) "Insurer" has the same meaning as in RCW 48.01.050, and includes a health care service contractor as defined in RCW 48.44.010 and a health maintenance organization as defined in RCW 48.46.020.

(8) "License" means a document issued by the commissioner authorizing a person to act as an insurance producer or title insurance agent for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit to an insurer.

(9) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation that the commissioner determines should be designated a form of limited line credit insurance.

(10) "NAIC" means national association of insurance commissioners.

(11) "Negotiate" means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(12) "Person" means an individual or a business entity.

(13) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

(14) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer.

(15) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance.

(16) "Title insurance agent" means a business entity licensed under the laws of this state and appointed by an authorized title insurance company to sell, solicit, or negotiate insurance on behalf of the title insurance company.

(17) "Uniform application" means the current version of the NAIC uniform application for individual insurance producers for resident and nonresident insurance producer licensing.

(18) "Uniform business entity application" means the current version of the NAIC uniform application for business entity insurance license or registration for resident and nonresident business entities.

Sec. 5. RCW 48.38.010 and 2010 c 27 s 2 are each amended to read as follows:

The commissioner may grant a certificate of exemption to any insurer or educational, religious, charitable, or scientific institution conducting a charitable gift annuity business:

(1) Which is organized and operated exclusively as, or for the purpose of aiding, an educational, religious, charitable, or scientific institution which is organized as a nonprofit organization without profit to any person, firm, partnership, association, corporation, or other entity;

(2) Which possesses a current tax exempt status under the laws of the United States;

(3) Which serves such purpose by issuing charitable gift annuity contracts only for the benefit of such educational, religious, charitable, or scientific institution;

(4) Which appoints the insurance commissioner as its true and lawful attorney upon whom may be served lawful process in any action, suit, or proceeding in any court, which appointment is irrevocable, binds the insurer or institution or any successor in interest, remains in effect as long as there is in force in this state any contract made or issued by the insurer or institution, or any obligation arising therefrom, and must be processed in accordance with RCW ((~~48.05.210~~)) 48.05.200;

(5) Which is fully and legally organized and qualified to do business and has been actively doing business under the laws of the state of its domicile for a period of at least three years prior to its application for a certificate of exemption;

(6) Which has and maintains minimum unrestricted net assets of five hundred thousand dollars. "Unrestricted net assets" means the excess of total assets over total liabilities that are neither permanently restricted nor temporarily restricted by donor-imposed stipulations;

(7) Which files with the insurance commissioner its application for a certificate of exemption showing:

(a) Its name, location, and organization date;

(b) The kinds of charitable annuities it proposes to offer;

(c) A statement of the financial condition, management, and affairs of the organization and any affiliate thereof, as that term is defined in RCW 48.31B.005, on a form satisfactory to, or furnished by the insurance commissioner;

(d) Other documents, stipulations, or information as the insurance commissioner may reasonably require to evidence compliance with the provisions of this chapter;

(8) Which subjects itself and any affiliate thereof, as that term is defined in RCW 48.31B.005, to periodic examinations conducted under chapter 48.03 RCW as may be deemed necessary by the insurance commissioner;

(9) Which files with the insurance commissioner for the commissioner's advance approval a copy of any policy or contract form to be offered or issued to residents of this state. The grounds for disapproval of the policy or contract form are set forth in RCW 48.18.110; and

(10) Which:

(a) Files with the insurance commissioner annually, within sixty days of the end of its fiscal year a report of its current financial condition, management, and affairs, on a form and in a manner prescribed by the commissioner, as well as such other financial material as may be requested, including the annual statement or other such financial materials as may be requested relating to any affiliate, as that term is defined in RCW 48.31B.005;

(b) Attaches to the report of its current financial condition the statement of a qualified actuary setting forth the actuary's opinion relating to annuity reserves and other actuarial items for the fiscal year covered by the report. "Qualified actuary" as used in this subsection means a member in good standing of the American academy of actuaries or a person who has otherwise demonstrated actuarial competence to the satisfaction of the insurance regulatory official of the domiciliary state; and

(c) On or before March 1st of each year, pays an annual filing fee of twenty-five dollars plus five dollars for each charitable gift annuity contract written for residents of this state during its fiscal year ending on or before December 31st of the previous calendar year.

Sec. 6. RCW 48.38.020 and 2002 c 295 s 1 are each amended to read as follows:

(1) Upon granting to such insurer or institution under RCW 48.38.010 a certificate of exemption to conduct a charitable gift annuity business, the insurance commissioner shall require it to establish and maintain a separate reserve fund adequate to meet the future payments under its charitable gift annuity contracts.

(2) The assets of the separate reserve fund:

(a) Shall be held legally and physically segregated from the other assets of the certificate of exemption holder;

(b) Shall be invested in the same manner that persons of reasonable prudence, discretion, and intelligence exercise in the management of a like enterprise, not in regard to speculating but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Investments shall be of sufficient value, liquidity, and diversity to assure the insurer or institution's ability to meet its outstanding obligations; and

(c) Shall not be liable for any debts of the insurer or institution holding a certificate of exemption under this chapter, other than those incurred pursuant to the issuance of charitable gift annuities.

(3) The amount of the separate reserve fund shall be:

(a) For contracts issued prior to July 1, 1998, not less than an amount computed in accordance with the standard of valuation based on the 1971 individual annuity mortality table with six percent interest for single premium immediate annuity contracts and four percent interest for all other individual annuity contracts;

(b) For contracts issued on or after July 1, 1998, in an amount not less than the aggregate reserves calculated according to the standards set forth in RCW 48.74.030 for other annuities with no cash settlement options;

(c) Plus a surplus of ten percent of the combined amounts under (a) and (b) of this subsection.

(4) The general assets of the insurer or institution holding a certificate of exemption under this chapter shall be liable for the payment of annuities to the extent that the separate reserve fund is inadequate.

(5) ((~~For any failure on its part to establish and maintain the separate reserve fund, the insurance commissioner shall revoke its certificate of exemption.~~

~~(6)~~)) If an institution holding a certificate of exemption under RCW 48.38.010 has purchased a single premium life annuity that pays the entire amount stipulated in the gift annuity agreement or agreements from an insurer (a) holding a certificate of authority under chapter 48.05 RCW, (b) licensed in the state in which the institution has its principle office, and (c) licensed in the state in which the single premium life annuity is issued, then in determining the minimum reserve fund that must be maintained under this section, a deduction shall be allowed from the minimum reserve fund in an amount not exceeding the reserve fund amount required for the annuity or annuities for which the single premium life annuity is purchased, subject to the following conditions:

(i) The institution has filed with the commissioner a copy of the single premium life annuity purchased and specifying which charitable gift annuity or annuities are being insured; and

(ii) The institution has entered into a written agreement with the annuitant and the insurer issuing the single premium life annuity providing that if for any reason the institution is unable to continue making the annuity payments required by its annuity agreements, the annuitants shall receive payments directly from the insurer and the insurer shall be credited with all of these direct payments in the accounts between the insurer and the institution.

Sec. 7. RCW 48.38.050 and 1998 c 284 s 4 are each amended to read as follows:

(1) The insurance commissioner may refuse to grant, or may revoke or suspend, a certificate of exemption if the insurance commissioner finds that the insurer or institution does not meet the requirements of this chapter or if the insurance commissioner finds that the insurer or institution has violated RCW 48.01.030 ((~~or~~)), any provisions of chapter 48.30 RCW, or this chapter, and any applicable provisions of Title 284 WAC, or is found by the insurance commissioner to be in such condition that its further issuance of charitable gift annuities would be hazardous to annuity contract holders and the people of this state.

(2) After hearing or with the consent of the insurer or institution and in addition to or in lieu of the suspension, revocation, or refusal to renew any certificate of exemption, the commissioner may levy a fine upon the insurer or institution in an amount not more than ten thousand dollars. The order levying such a fine shall specify the period within which the fine shall be fully paid and which period shall not be less than fifteen nor more than thirty days from the date of the order. Upon failure to pay such a fine when due the commissioner ((~~shall~~)) may revoke the certificate of exemption of the insurer or institution if not already revoked, and the fine shall be recovered in a civil action brought in behalf of the commissioner by the attorney general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund.

Sec. 8. RCW 48.43.310 and 1998 c 241 s 3 are each amended to read as follows:

(1) "Company action level event" means any of the following events:

(a) The filing of an RBC report by a carrier which indicates that:

(i) The carrier's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC; or

(ii) The carrier has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and ((~~2.5~~)) 3 and has a negative trend;

(b) The notification by the commissioner to the carrier of an adjusted RBC report that indicates an event in (a) of this subsection, provided the carrier does not challenge the adjusted RBC report under RCW 48.43.330; or

(c) If, under RCW 48.43.330, a carrier challenges an adjusted RBC report that indicates the event in (a) of this subsection, the notification by the commissioner to the carrier that the commissioner has, after a hearing, rejected the carrier's challenge.

(2) In the event of a company action level event, the carrier shall prepare and submit to the commissioner an RBC plan that:

(a) Identifies the conditions that contribute to the company action level event;

(b) Contains proposals of corrective actions that the carrier intends to take and would be expected to result in the elimination of the company action level event;

(c) Provides projections of the carrier's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, surplus, capital and surplus, and net worth. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense, and benefit component;

(d) Identifies the key assumptions impacting the carrier's projections and the sensitivity of the projections to the assumptions; and

(e) Identifies the quality of, and problems associated with, the carrier's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case.

(3) The RBC plan shall be submitted:

(a) Within forty-five days of the company action level event; or

(b) If the carrier challenges an adjusted RBC report under RCW 48.43.330, within forty-five days after notification to the carrier that the commissioner has, after a hearing, rejected the carrier's challenge.

(4) Within sixty days after the submission by a carrier of an RBC plan to the commissioner, the commissioner shall notify the carrier whether the RBC plan may be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the RBC plan is unsatisfactory, the notification to the carrier shall set forth the reasons for the determination, and may set forth proposed revisions that will render the RBC plan satisfactory. Upon notification from the commissioner, the carrier shall prepare a revised RBC plan, that may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised RBC plan to the commissioner:

(a) Within forty-five days after the notification from the commissioner; or

(b) If the carrier challenges the notification from the commissioner under RCW 48.43.330, within forty-five days after a notification to the carrier that the commissioner has, after a hearing, rejected the carrier's challenge.

(5) In the event of a notification by the commissioner to a carrier that the carrier's RBC plan or revised RBC plan is unsatisfactory, the commissioner may, subject to the carrier's rights to a hearing under RCW 48.43.330, specify in the notification that the notification constitutes a regulatory action level event.

(6) Every domestic carrier that files an RBC plan or revised RBC plan with the commissioner shall file a copy of the RBC plan or revised RBC plan with the insurance commissioner in any state in which the carrier is authorized to do business if:

(a) Such state has an RBC provision substantially similar to RCW 48.43.335(1); and

(b) The insurance commissioner of that state has notified the carrier of its request for the filing in writing, in which case the carrier shall file a copy of the RBC plan or revised RBC plan in that state no later than the later of:

(i) Fifteen days after the receipt of notice to file a copy of its RBC plan or revised plan with the state; or

(ii) The date on which the RBC plan or revised RBC plan is filed under subsections (3) and (4) of this section.

Sec. 9. RCW 48.85.010 and 2008 c 145 s 21 are each amended to read as follows:

The department of social and health services shall, in conjunction with the office of the insurance commissioner, coordinate a long-term care insurance program entitled the Washington long-term care partnership, whereby private insurance and medicaid funds shall be used to finance long-term care. For individuals purchasing a long-term care insurance policy or contract governed by chapter 48.84 or 48.83 RCW and meeting the criteria prescribed in this chapter, and any other terms as specified by the office of the insurance commissioner and the department of social and health services, this program shall allow for the exclusion of some or all of the individual's assets in determination of medicaid eligibility as approved by the ((~~federal health care financing administration~~)) centers for medicare and medicaid services.

Sec. 10. RCW 48.85.020 and 1995 1st sp.s. c 18 s 77 are each amended to read as follows:

The department of social and health services shall seek approval from the ((~~federal health care financing administration~~)) centers for medicare and medicaid services to allow the protection of an individual's assets as provided in this chapter. The department shall adopt all rules necessary to implement the Washington long-term care partnership program, which rules shall permit the exclusion of all or some of an individual's assets in a manner specified by the department in a determination of medicaid eligibility to the extent that private long-term care insurance provides payment or benefits for services.

Sec. 11. RCW 48.125.050 and 2004 c 260 s 7 are each amended to read as follows:

A self-funded multiple employer welfare arrangement must apply for a certificate of authority on a form prescribed by the commissioner and must submit the application, together with the following documents, to the commissioner:

(1) A copy of all articles, bylaws, agreements, trusts, or other documents or instruments describing the rights and obligations of the employers, employees, and beneficiaries of the arrangement;

(2) A copy of the summary plan description or summary plan descriptions of the arrangement, including those filed or required to be filed with the United States department of labor, together with any amendments to the description;

(3) Evidence of coverage of or letters of intent to participate executed by at least twenty employers providing allowable benefits to at least seventy-five employees;

(4) A copy of the arrangement's most recent year's financial statements that must include, at a minimum, a balance sheet, an income statement, a statement of changes in financial position, and an actuarial opinion signed by a qualified actuary stating that the unpaid claim liability of the arrangement satisfies the standards under this title;

(5) Proof that the arrangement maintains or will maintain fidelity bonds required by the United States department of labor under the employee retirement income security act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(6) A copy of any excess of loss insurance coverage policies maintained or proposed to be maintained by the arrangement;

(7) Biographical reports on forms prescribed by the national association of insurance commissioners evidencing the general trustworthiness and competence of each individual who is serving or who will serve as an officer, director, trustee, employee, or fiduciary of the arrangement;

(8) ((~~Fingerprint cards and current fees payable to the Washington state patrol~~)) Third-party verification reports from a vendor authorized by the national association of insurance commissioners to perform a state ((~~and~~)), national, and international criminal background history ((~~background~~)) check of any person who exercises control over the financial dealings and operations of the self-funded multiple employer welfare arrangement, including collection of employer contributions, investment of assets, payment of claims, rate setting, and claims adjudication. The ((~~fingerprints~~)) third-party verification reports and any additional information ((~~may~~)) must be submitted to ((~~the federal bureau of investigation and any results of the check must be returned to~~)) the office of the

insurance commissioner. The results may be disseminated to any governmental agency or entity authorized to receive them; and

(9) A statement executed by a representative of the arrangement certifying, to the best knowledge and belief of the representative, that:

(a) The arrangement is in compliance with RCW 48.125.030;

(b) The arrangement is in compliance with the requirements of the employee retirement income security act of 1974, 29 U.S.C. Sec. 1001 et seq., or a statement of any requirements with which the arrangement is not in compliance and a statement of proposed corrective actions; and

(c) The arrangement is in compliance with RCW 48.125.060 and 48.125.070.

Sec. 12. RCW 48.17.380 and 2011 c 47 s 10 are each amended to read as follows:

(1) Application for a license to be an adjuster must be made to the commissioner upon forms furnished by the commissioner.

(a) As a part of or in connection with the application, ((~~an individual~~)) each resident applicant, and nonresident applicant designating Washington as the applicant's home state must furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, and any governmental agency or entity authorized to receive this information for a state and national criminal history background check, personal history, experience, business record, purposes, and other pertinent facts, as the commissioner may reasonably require. If, in the process of verifying fingerprints, business records, or other information, the commissioner's office incurs fees or charges from another governmental agency or from a business firm, the amount of the fees or charges must be paid to the commissioner's office by the applicant.

(b) A nonresident person holding an adjuster's license or equivalent in a state other than Washington that is the applicant's home state, or is designated as the applicant's home state, must comply with the requirements of this section, with the exception of the fingerprint requirement contained in (a) of this subsection.

(2) Any person willfully misrepresenting any fact required to be disclosed in any application shall be liable to penalties as provided by this code.

(3) The commissioner licenses as an adjuster only an individual or business entity which has otherwise complied with this code and the individual or responsible officer of the business entity has furnished evidence satisfactory to the commissioner that the individual or responsible officer of the business entity is qualified as follows:

(a) Is eighteen or more years of age;

(b) Is a bona fide resident of this state, or is a resident of a state which will permit residents of this state to act as adjusters in such other state;

(c) Is a trustworthy person;

(d) Has had experience or special education or training with reference to the handling of loss claims under insurance contracts, of sufficient duration and extent reasonably to make the individual or responsible officer of the business entity competent to fulfill the responsibilities of an adjuster;

(e) Has successfully passed any examination as required under this chapter;

(f) If for a public adjuster's license, has filed the bond required by RCW 48.17.430;

(g) If a nonresident business entity, has designated an individual licensed adjuster responsible for the business entity's compliance with the insurance laws and rules of this state.

(4) If an applicant's principal place of residence or principal place of business is located in a state or province that does not have laws governing adjusters substantially similar to those of this state, the applicant may designate this state or another state or province in which the applicant is licensed and acts as an adjuster to be the applicant's home state for the purposes of this chapter.

(5) If the applicant designates this state or another state or province as the applicant's home state, to be eligible for licensure in this state, the applicant must have satisfied the requirements for licensure as a resident adjuster under the laws of the applicant's designated home state.

(6)(a) Each licensed nonresident adjuster, by application for and issuance of a license, has appointed the commissioner as the adjuster's attorney to receive service of legal process against the adjuster in this state upon causes of action arising within this state. Service upon the commissioner as attorney constitutes effective legal service on the adjuster.

(b) The appointment of the commissioner as attorney is irrevocable, binds any successor in interest or to the assets or liabilities of the adjuster, and remains in effect for as long as there could be any cause of action against the adjuster arising out of the adjuster's transactions in this state. The service of process must be accomplished and processed in the manner prescribed under RCW 48.02.200.

((~~(5)~~)) (7) The commissioner may require any documents reasonably necessary to verify the information contained in an application and may, from time to time, require any licensed adjuster to produce the information called for in an application for a license.

NEW SECTION. **Sec. 13.** RCW 48.19.450 (Casualty rate filing—Credit) and 1986 c 305 s 907 are each repealed.

Sec. 14. RCW 43.70.235 and 2005 c 54 s 1 are each amended to read as follows:

(1) The department shall adopt rules providing a procedure and criteria for certifying one or more organizations to perform independent review of health care disputes described in RCW 48.43.535.

(2) The rules must require that the organization ensure:

(a) The confidentiality of medical records transmitted to an independent review organization for use in independent reviews;

(b) That each health care provider, physician, or contract specialist making review determinations for an independent review organization is qualified. Physicians, other health care providers, and, if applicable, contract specialists must be appropriately licensed, certified, or registered as required in Washington state or in at least one state with standards substantially comparable to Washington state. Reviewers may be drawn from nationally recognized centers of excellence, academic institutions, and recognized leading practice sites. Expert medical reviewers should have substantial, recent clinical experience dealing with the same or similar health conditions. The organization must have demonstrated expertise and a history of reviewing health care in terms of

medical necessity, appropriateness, and the application of other health plan coverage provisions;

(c) That any physician, health care provider, or contract specialist making a review determination in a specific review is free of any actual or potential conflict of interest or bias. Neither the expert reviewer, nor the independent review organization, nor any officer, director, or management employee of the independent review organization may have any material professional, familial, or financial affiliation with any of the following: The health carrier; professional associations of carriers and providers; the provider; the provider's medical or practice group; the health facility at which the service would be provided; the developer or manufacturer of a drug or device under review; or the enrollee;

(d) The fairness of the procedures used by the independent review organization in making the determinations;

(e) That each independent review organization make its determination:

(i) Not later than the earlier of:

(A) The fifteenth day after the date the independent review organization receives the information necessary to make the determination; or

(B) The twentieth day after the date the independent review organization receives the request that the determination be made. In exceptional circumstances, when the independent review organization has not obtained information necessary to make a determination, a determination may be made by the twenty-fifth day after the date the organization received the request for the determination; and

(ii) In ((~~cases of a condition that could seriously jeopardize the enrollee's health or ability to regain maximum function, not later than the earlier of:~~

~~(A)~~)) requests for expedited review under RCW 48.43.535(7)(a), as expeditiously as possible but within not more than seventy-two hours after the date the independent review organization receives the ((~~information necessary to make the determination; or~~

~~(B) The eighth day after the date the independent review organization receives the request that the determination be made~~)) request for expedited review;

(f) That timely notice is provided to enrollees of the results of the independent review, including the clinical basis for the determination;

(g) That the independent review organization has a quality assurance mechanism in place that ensures the timeliness and quality of review and communication of determinations to enrollees and carriers, and the qualifications, impartiality, and freedom from conflict of interest of the organization, its staff, and expert reviewers; and

(h) That the independent review organization meets any other reasonable requirements of the department directly related to the functions the organization is to perform under this section and RCW 48.43.535, and related to assessing fees to carriers in a manner consistent with the maximum fee schedule developed under this section.

(3) To be certified as an independent review organization under this chapter, an organization must submit to the department an application in the form required by the department. The application must include:

(a) For an applicant that is publicly held, the name of each stockholder or owner of more than five percent of any stock or options;

(b) The name of any holder of bonds or notes of the applicant that exceed one hundred thousand dollars;

(c) The name and type of business of each corporation or other organization that the applicant controls or is affiliated with and the nature and extent of the affiliation or control;

(d) The name and a biographical sketch of each director, officer, and executive of the applicant and any entity listed under (c) of this subsection and a description of any relationship the named individual has with:

(i) A carrier;

(ii) A utilization review agent;

(iii) A nonprofit or for-profit health corporation;

(iv) A health care provider;

(v) A drug or device manufacturer; or

(vi) A group representing any of the entities described by (d)(i) through (v) of this subsection;

(e) The percentage of the applicant's revenues that are anticipated to be derived from reviews conducted under RCW 48.43.535;

(f) A description of the areas of expertise of the health care professionals and contract specialists making review determinations for the applicant; and

(g) The procedures to be used by the independent review organization in making review determinations regarding reviews conducted under RCW 48.43.535.

(4) If at any time there is a material change in the information included in the application under subsection (3) of this section, the independent review organization shall submit updated information to the department.

(5) An independent review organization may not be a subsidiary of, or in any way owned or controlled by, a carrier or a trade or professional association of health care providers or carriers.

(6) An independent review organization, and individuals acting on its behalf, are immune from suit in a civil action when performing functions under chapter 5, Laws of 2000. However, this immunity does not apply to an act or omission made in bad faith or that involves gross negligence.

(7) Independent review organizations must be free from interference by state government in its functioning except as provided in subsection (8) of this section.

(8) The rules adopted under this section shall include provisions for terminating the certification of an independent review organization for failure to comply with the requirements for certification. The department may review the operation and performance of an independent review organization in response to complaints or other concerns about compliance. No later than January 1, 2006, the department shall develop a reasonable maximum fee schedule that independent review organizations shall use to assess carriers for conducting reviews authorized under RCW 48.43.535.

(9) In adopting rules for this section, the department shall take into consideration standards for independent review organizations adopted by national accreditation organizations. The department may accept national accreditation or certification by another state as evidence that an organization satisfies some or all of the requirements for certification by the department as an independent review organization.

Sec. 15. RCW 48.20.435 and 2011 c 314 s 1 are each amended to read as follows:

((~~Any~~)) (1) Each disability insurance contract that is not grandfathered and that provides coverage for a subscriber's ((~~dependent~~)) child must offer the option of covering any ((~~dependent~~)) child under the age of twenty-six.

(2) Each grandfathered disability insurance contract that provides coverage for a subscriber's child must offer the option of covering any child under the age of twenty-six unless the child is eligible to enroll in an eligible health plan sponsored by the child's employer or the child's spouse's employer.

(3) As used in this section, "grandfathered" has the same meaning as "grandfathered health plan" in RCW 48.43.005.

Sec. 16. RCW 48.43.018 and 2010 c 277 s 1 are each amended to read as follows:

(1) Except as provided in (a) through (g) of this subsection, a health carrier may require any person applying for an individual health benefit plan and the health care authority shall require any person applying for nonsubsidized enrollment in the basic health plan to complete the standard health questionnaire designated under chapter 48.41 RCW.

(a) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her change of residence from one geographic area in Washington state to another geographic area in Washington state where his or her current health plan is not offered, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of relocation.

(b) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee:

(i) Because a health care provider with whom he or she has an established care relationship and from whom he or she has received treatment within the past twelve months is no longer part of the carrier's provider network under his or her existing Washington individual health benefit plan; and

(ii) His or her health care provider is part of another carrier's or a basic health plan managed care system's provider network; and

(iii) Application for a health benefit plan under that carrier's provider network individual coverage or for basic health plan nonsubsidized enrollment is made within ninety days of his or her provider leaving the previous carrier's provider network; then completion of the standard health questionnaire shall not be a condition of coverage.

(c) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her having exhausted continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of exhaustion of continuation coverage. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall accept an application without a standard health questionnaire from a person currently covered by such continuation coverage if application is made within ninety days prior to the date the continuation coverage would be exhausted and the effective date of the individual coverage applied for is the date the continuation coverage would be exhausted, or within ninety days thereafter.

(d) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to a change in employment status that would qualify him or her to purchase continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., but the person's employer is exempt under federal law from the requirement to offer such coverage, completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(e) If a person is seeking an individual health benefit plan, or enrollment in the basic health plan as a nonsubsidized enrollee, completion of the standard health questionnaire shall not be a condition of coverage if: (i) The person had at least twenty-four months of continuous basic health plan coverage under chapter 70.47 RCW immediately prior to disenrollment; and (ii) application for coverage is made within ninety days of disenrollment from the basic health plan. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous basic health plan coverage if application is made no more than ninety days prior to the date of disenrollment and the effective date of the individual coverage applied for is the date of disenrollment, or within ninety days thereafter.

(f) If a person is seeking an individual health benefit plan due to a change in employment status that would qualify him or her to purchase continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire is not a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(g) If a person is seeking an individual health benefit plan due to their terminating continuation coverage under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of terminating the continuation coverage; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the termination. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of termination of the continuation coverage and the effective date of the individual coverage applied for is the date the continuation coverage is terminated, or within ninety days thereafter.

(h) If a person is seeking an individual health benefit plan because his or her employer, or former employer, discontinues group coverage due to the closure of the business, completion of the standard health questionnaire shall not be a condition of coverage if: (i)(A) Application for coverage is made within ninety days of the employer discontinuing group coverage due to closure of the business; and ((~~(ii)~~)) (B) the person had at least twenty-four months of continuous group coverage immediately prior to the termination. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of discontinuation of group coverage, and the effective date of the individual coverage applied for is the date the group coverage is discontinued, or within ninety days thereafter; or (ii) the person seeking enrollment is under the age of nineteen.

(2) If, based upon the results of the standard health questionnaire, the person qualifies for coverage under the Washington state health insurance pool, the following shall apply:

(a) The carrier may decide not to accept the person's application for enrollment in its individual health benefit plan and the health care authority, as administrator of basic health plan nonsubsidized coverage, shall not accept the person's application for enrollment as a nonsubsidized enrollee; and

(b) Within fifteen business days of receipt of a completed application, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall provide written notice of the decision not to accept the person's application for enrollment to both the person and the administrator of the Washington state health insurance pool. The notice to the person shall state that the person is eligible for health insurance provided by the Washington state health insurance pool, and shall include information about the Washington state health insurance pool and an application for such coverage. If the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage does not provide or postmark such notice within fifteen business days, the application is deemed approved.

(3) If the person applying for an individual health benefit plan: (a) Does not qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire; (b) does qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire and the carrier elects to accept the person for enrollment; or (c) is not required to complete the standard health questionnaire designated under this chapter under subsection (1)(a) or (b) of this section, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage, whichever entity administered the standard health questionnaire, shall accept the person for enrollment if he or she resides within the carrier's or the basic health plan's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The commissioner may grant a temporary exemption from this subsection if, upon application by a health carrier, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will

be impaired if a health carrier is required to continue enrollment of additional eligible individuals.

Sec. 17. RCW 48.43.005 and 2011 c 315 s 2 and 2011 c 314 s 3 are each reenacted and amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Adverse benefit determination" means a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit, including a denial, reduction, termination, or failure to provide or make payment that is based on a determination of an enrollee's or applicant's eligibility to participate in a plan, and including, with respect to group health plans, a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(3) "Applicant" means a person who applies for enrollment in an individual health plan as the subscriber or an enrollee, or the dependent or spouse of a subscriber or enrollee.

(4) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(5) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(6) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(7) "Catastrophic health plan" means:

(a) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(b) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least six thousand dollars, both amounts to be adjusted annually by the insurance commissioner; or

(c) Any health benefit plan that provides benefits for hospital inpatient and outpatient services, professional and prescription drugs provided in conjunction with such hospital inpatient and outpatient services, and excludes or substantially limits outpatient physician services and those services usually provided in an office setting.

In July 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. The adjusted amount shall apply on the following January 1st.

(8) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(9) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(10) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(11) "Dependent" means, at a minimum, the enrollee's legal spouse and dependent children who qualify for coverage under the enrollee's health benefit plan.

(12) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition (a) placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, (b) serious impairment to bodily functions, or (c) serious dysfunction of any bodily organ or part.

(13) "Emergency services" means a medical screening examination, as required under section 1867 of the social security act (42 U.S.C. 1395dd), that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate that emergency medical condition, and further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the social security act (42 U.S.C. 1395dd) to stabilize the patient. Stabilize, with respect to an emergency medical condition, has the meaning given in section 1867(e)(3) of the social security act (42 U.S.C. 1395dd(e)(3)).

(14) "Employee" has the same meaning given to the term, as of January 1, 2008, under section 3(6) of the federal employee retirement income security act of 1974.

(15) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(16) "Final external review decision" means a determination by an independent review organization at the conclusion of an external review.

(17) "Final internal adverse benefit determination" means an adverse benefit determination that has been upheld by a health plan or carrier at the completion of the internal appeals process, or an adverse benefit determination with respect

to which the internal appeals process has been exhausted under the exhaustion rules described in RCW 48.43.530 and 48.43.535.

(18) "Grandfathered health plan" means a group health plan or an individual health plan that under section 1251 of the patient protection and affordable care act, P.L. 111-148 (2010) and as amended by the health care and education reconciliation act, P.L. 111-152 (2010) is not subject to subtitles A or C of the act as amended.

(19) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding((~~: (a) Denial of payment for medical services or nonprovision of medical services included in the covered person's health benefit plan, or (b)~~)) service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(20) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(21) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(22) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(23) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the patient protection and affordable care act (P.L. 111-148).

(24) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 or 48.83 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage; and

(l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(25) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(26) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

((~~(26)~~)) (27) "Open enrollment" means a period of time as defined in rule to be held at the same time each year, during which applicants may enroll in a carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

((~~(27)~~)) (28) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

((~~(28)~~)) (29) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

((~~(29)~~)) (30) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

((~~(30)~~)) (31) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that employed an average of at least one but no more than fifty employees, during the previous calendar year and employed at least one employee on the first day of the plan year, is not formed primarily for purposes of buying health insurance, and in which a bona fide employer-employee relationship exists. In determining the number of employees, companies that are affiliated companies, or that are

eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor who is covered as a group of one must also: (a) Have been employed by the same small employer or small group for at least twelve months prior to application for small group coverage, and (b) verify that he or she derived at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year, except a self-employed individual or sole proprietor in an agricultural trade or business, must have derived at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year.

(((~~(31)~~))) (32) "Special enrollment" means a defined period of time of not less than thirty-one days, triggered by a specific qualifying event experienced by the applicant, during which applicants may enroll in the carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(((~~(32)~~))) (33) "Standard health questionnaire" means the standard health questionnaire designated under chapter 48.41 RCW.

(((~~(33)~~))) (34) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(((~~(34)~~))) (35) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, 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 for the purpose of improving enrollee health status and reducing health service costs.

Sec. 18. RCW 48.44.215 and 2011 c 314 s 6 are each amended to read as follows:

(1) ((~~Any~~)) Each individual health care service plan contract that is not grandfathered and that provides coverage for a subscriber's ((~~dependent~~)) child must offer the option of covering any ((~~dependent~~)) child under the age of twenty-six.

(2) ((~~Any~~)) Each group health care service plan contract that is not grandfathered and that provides coverage for a participating member's ((~~dependent~~)) child must offer each participating member the option of covering any ((~~dependent~~)) child under the age of twenty-six.

(3) Each grandfathered health care service plan that provides coverage for a subscriber's child must offer the option of covering any child under the age of

twenty-six unless the child is eligible to enroll in an eligible health plan sponsored by the child's employer or the child's spouse's employer.

(4) As used in this section, "grandfathered" has the same meaning as "grandfathered health plan" in RCW 48.43.005.

Sec. 19. RCW 48.46.325 and 2011 c 314 s 8 are each amended to read as follows:

(1) ((~~Any~~)) Each individual health maintenance agreement that is not grandfathered and that provides coverage for a subscriber's ((~~dependent~~)) child must offer the option of covering any ((~~dependent~~)) child under the age of twenty-six.

(2) ((~~Any~~)) Each group health maintenance agreement that is not grandfathered and that provides coverage for a participating member's ((~~dependent~~)) child must offer each participating member the option of covering any ((~~dependent~~)) child under the age of twenty-six.

(3) Each grandfathered individual or group health maintenance agreement that provides coverage for a subscriber's child must offer the option of covering any child under the age of twenty-six, unless that child is eligible to enroll in an eligible health plan sponsored by the child's employer or the child's spouse's employer.

(4) As used in this section, "grandfathered" has the same meaning as "grandfathered health plan" in RCW 48.43.005.

Sec. 20. RCW 48.43.530 and 2011 c 314 s 4 are each amended to read as follows:

(1) Each carrier ((~~that offers a~~)) and health plan must have ((~~a~~)) fully operational, comprehensive grievance ((~~process that complies~~)) and appeal processes, and for plans that are not grandfathered, fully operational, comprehensive, and effective grievance and review of adverse benefit determination processes that comply with the requirements of this section and any rules adopted by the commissioner to implement this section. For the purposes of this section, the commissioner ((~~shall~~)) must consider applicable grievance and appeal or review of adverse benefit determination process standards adopted by national managed care accreditation organizations and state agencies that purchase managed health care services, and for health plans that are not grandfathered health plans as approved by the United States department of health and human services or the United States department of labor. In the case of coverage offered in connection with a group health plan, if either the carrier or the health plan complies with the requirements of this section and RCW 48.43.535, then the obligation to comply is satisfied for both the carrier and the plan with respect to the health insurance coverage.

(2) Each carrier and health plan must process as a ((~~complaint~~)) grievance an enrollee's expression of dissatisfaction about customer service or the quality or availability of a health service. Each carrier must implement procedures for registering and responding to oral and written ((~~complaints~~)) grievances in a timely and thorough manner.

(3) Each carrier and health plan must provide written notice to an enrollee or the enrollee's designated representative, and the enrollee's provider, of its decision to deny, modify, reduce, or terminate payment, coverage, authorization,

or provision of health care services or benefits, including the admission to or continued stay in a health care facility.

(4) ((~~Each carrier must process as an appeal an enrollee's written or oral request that the carrier reconsider: (a) Its resolution of a complaint made by an enrollee; or (b) its decision to deny, modify, reduce, or terminate payment, coverage, authorization, or provision of health care services or benefits, including the admission to, or continued stay in, a health care facility. A carrier must not require that an enrollee file a complaint prior to seeking appeal of a decision under (b) of this subsection.~~)) An enrollee's written or oral request that a carrier reconsider its decision to deny, modify, reduce, or terminate payment, coverage, authorization, or provision of health care services or benefits, including the admission to, or continued stay in, a health care facility must be processed as follows:

(a) When the request is made under a grandfathered health plan, the plan and the carrier must process it as an appeal;

(b) When the request is made under a health plan that is not grandfathered, the plan and the carrier must process it as a review of an adverse benefit determination; and

(c) Neither a carrier nor a health plan, whether grandfathered or not, may require that an enrollee file a complaint or grievance prior to seeking appeal of a decision or review of an adverse benefit determination under this subsection.

(5) To process an appeal, each plan that is not grandfathered and each carrier offering that plan must:

(a) Provide written notice to the enrollee when the appeal is received;

(b) Assist the enrollee with the appeal process;

(c) Make its decision regarding the appeal within thirty days of the date the appeal is received. An appeal must be expedited if the enrollee's provider or the carrier's medical director reasonably determines that following the appeal process response timelines could seriously jeopardize the enrollee's life, health, or ability to regain maximum function. The decision regarding an expedited appeal must be made within seventy-two hours of the date the appeal is received;

(d) Cooperate with a representative authorized in writing by the enrollee;

(e) Consider information submitted by the enrollee;

(f) Investigate and resolve the appeal; and

(g) Provide written notice of its resolution of the appeal to the enrollee and, with the permission of the enrollee, to the enrollee's providers. The written notice must explain the carrier's and health plan's decision and the supporting coverage or clinical reasons and the enrollee's right to request independent review of the carrier's decision under RCW 48.43.535.

(6) Written notice required by subsection (3) of this section must explain:

(a) The carrier's and health plan's decision and the supporting coverage or clinical reasons; and

(b) The carrier's and grandfathered plan's appeal or for plans that are not grandfathered, adverse benefit determination review process, including information, as appropriate, about how to exercise the enrollee's rights to obtain a second opinion, and how to continue receiving services as provided in this section.

(7) When an enrollee requests that the carrier or health plan reconsider its decision to modify, reduce, or terminate an otherwise covered health service that

an enrollee is receiving through the health plan and the carrier's or health plan's decision is based upon a finding that the health service, or level of health service, is no longer medically necessary or appropriate, the carrier and health plan must continue to provide that health service until the appeal, or for health plans that are not grandfathered, the review of an adverse benefit determination, is resolved. If the resolution of the appeal, review of an adverse benefit determination, or any review sought by the enrollee under RCW 48.43.535 affirms the carrier's or health plan's decision, the enrollee may be responsible for the cost of this continued health service.

(8) Each carrier and health plan must provide a clear explanation of the grievance and appeal, or for plans that are not grandfathered, the process for review of an adverse benefit determination process upon request, upon enrollment to new enrollees, and annually to enrollees and subcontractors.

(9) Each carrier and health plan must ensure that ((~~the~~)) each grievance, appeal, and for plans that are not grandfathered, grievance and review of adverse benefit determinations, process is accessible to enrollees who are limited English speakers, who have literacy problems, or who have physical or mental disabilities that impede their ability to file a grievance, appeal or review of an adverse benefit determination.

(10)(a) Each plan that is not grandfathered and the carrier that offers it must: Track each appeal until final resolution; maintain, and make accessible to the commissioner for a period of three years, a log of all appeals; and identify and evaluate trends in appeals.

(b) Each grandfathered plan and the carrier that offers it must: Track each review of an adverse benefit determination until final resolution; maintain and make accessible to the commissioner, for a period of six years, a log of all such determinations; and identify and evaluate trends in requests for and resolution of review of adverse benefit determinations.

(11) In complying with this section, plans that are not grandfathered and the carriers offering them must treat a rescission of coverage, whether or not the rescission has an adverse effect on any particular benefit at that time, and any decision to deny coverage in an initial eligibility determination as an adverse benefit determination.

Sec. 21. RCW 48.43.535 and 2011 c 314 s 5 are each amended to read as follows:

(1) There is a need for a process for the fair consideration of disputes relating to decisions by carriers that offer a health plan to deny, modify, reduce, or terminate coverage of or payment for health care services for an enrollee. For purposes of this section, "carrier" also applies to a health plan if the health plan administers the appeal process directly or through a third party.

(2) An enrollee may seek review by a certified independent review organization of a carrier's decision to deny, modify, reduce, or terminate coverage of or payment for a health care service, after exhausting the carrier's grievance process and receiving a decision that is unfavorable to the enrollee, or after the carrier has exceeded the timelines for grievances provided in RCW 48.43.530, without good cause and without reaching a decision.

(3) The commissioner must establish and use a rotational registry system for the assignment of a certified independent review organization to each dispute. The system should be flexible enough to ensure that an independent review

organization has the expertise necessary to review the particular medical condition or service at issue in the dispute, and that any approved independent review organization does not have a conflict of interest that will influence its independence.

(4) Carriers must provide to the appropriate certified independent review organization, not later than the third business day after the date the carrier receives a request for review, a copy of:

(a) Any medical records of the enrollee that are relevant to the review;

(b) Any documents used by the carrier in making the determination to be reviewed by the certified independent review organization;

(c) Any documentation and written information submitted to the carrier in support of the appeal; and

(d) A list of each physician or health care provider who has provided care to the enrollee and who may have medical records relevant to the appeal. Health information or other confidential or proprietary information in the custody of a carrier may be provided to an independent review organization, subject to rules adopted by the commissioner.

(5) Enrollees must be provided with at least five business days to submit to the independent review organization in writing additional information that the independent review organization must consider when conducting the external review. The independent review organization must forward any additional information submitted by an enrollee to the plan or carrier within one business day of receipt by the independent review organization.

(6) The medical reviewers from a certified independent review organization will make determinations regarding the medical necessity or appropriateness of, and the application of health plan coverage provisions to, health care services for an enrollee. The medical reviewers' determinations must be based upon their expert medical judgment, after consideration of relevant medical, scientific, and cost-effectiveness evidence, and medical standards of practice in the state of Washington. Except as provided in this subsection, the certified independent review organization must ensure that determinations are consistent with the scope of covered benefits as outlined in the medical coverage agreement. Medical reviewers may override the health plan's medical necessity or appropriateness standards if the standards are determined upon review to be unreasonable or inconsistent with sound, evidence-based medical practice.

(7) Once a request for an independent review determination has been made, the independent review organization must proceed to a final determination, unless requested otherwise by both the carrier and the enrollee or the enrollee's representative.

(a) An enrollee or carrier may request an expedited external review if the adverse benefit determination or internal adverse benefit determination concerns an admission, availability of care, continued stay, or health care service for which the claimant received emergency services but has not been discharged from a facility; or involves a medical condition for which the standard external review time frame ((~~of forty-five days~~)) would seriously jeopardize the life or health of the enrollee or jeopardize the enrollee's ability to regain maximum function. The independent review organization must make its decision to uphold or reverse the adverse benefit determination or final internal adverse benefit determination and notify the enrollee and the carrier or health plan of the

determination as expeditiously as possible but within not more than seventy-two hours after the receipt of the request for expedited external review. If the notice is not in writing, the independent review organization must provide written confirmation of the decision within forty-eight hours after the date of the notice of the decision.

(b) For claims involving experimental or investigational treatments, the ((~~internal~~)) independent review organization must ensure that adequate clinical and scientific experience and protocols are taken into account as part of the external review process.

(8) Carriers must timely implement the certified independent review organization's determination, and must pay the certified independent review organization's charges.

(9) When an enrollee requests independent review of a dispute under this section, and the dispute involves a carrier's decision to modify, reduce, or terminate an otherwise covered health service that an enrollee is receiving at the time the request for review is submitted and the carrier's decision is based upon a finding that the health service, or level of health service, is no longer medically necessary or appropriate, the carrier must continue to provide the health service if requested by the enrollee until a determination is made under this section. If the determination affirms the carrier's decision, the enrollee may be responsible for the cost of the continued health service.

(10) Each certified independent review organization must maintain written records and make them available upon request to the commissioner.

(11) A certified independent review organization may notify the office of the insurance commissioner if, based upon its review of disputes under this section, it finds a pattern of substandard or egregious conduct by a carrier.

(12)(a) The commissioner shall adopt rules to implement this section after considering relevant standards adopted by national managed care accreditation organizations and the national association of insurance commissioners.

(b) This section is not intended to supplant any existing authority of the office of the insurance commissioner under this title to oversee and enforce carrier compliance with applicable statutes and rules.

Sec. 22. RCW 48.46.020 and 2010 c 292 s 5 are each reenacted and amended to read as follows:

As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context indicates otherwise.

(1) "Carrier" means a health maintenance organization, an insurer, a health care services contractor, or other entity responsible for the payment of benefits or provision of services under a group or individual agreement.

(2) "Census date" means the date upon which a health maintenance organization offering coverage to a small employer must base rate calculations. For a small employer applying for a health benefit plan through a health maintenance organization other than its current health maintenance organization, the census date is the date that final group composition is received by the health maintenance organization. For a small employer that is renewing its health benefit plan through its existing health maintenance organization, the census date is ninety days prior to the effective date of the renewal.

(3) "Commissioner" means the insurance commissioner.

(4) "Comprehensive health care services" means basic consultative, diagnostic, and therapeutic services rendered by licensed health professionals together with emergency and preventive care, inpatient hospital, outpatient and physician care, at a minimum, and any additional health care services offered by the health maintenance organization.

(5) "Consumer" means any member, subscriber, enrollee, beneficiary, or other person entitled to health care services under terms of a health maintenance agreement, but not including health professionals, employees of health maintenance organizations, partners, or shareholders of stock corporations licensed as health maintenance organizations.

(6) "Copayment" means an amount specified in a subscriber agreement which is an obligation of an enrolled participant for a specific service which is not fully prepaid.

(7) "Deductible" means the amount an enrolled participant is responsible to pay out-of-pocket before the health maintenance organization begins to pay the costs associated with treatment.

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

(9) "Enrolled participant" means a person who or group of persons which has entered into a contractual arrangement or on whose behalf a contractual arrangement has been entered into with a health maintenance organization to receive health care services.

(10) "Fully subordinated debt" means those debts that meet the requirements of RCW 48.46.235(3) and are recorded as equity.

(11) "Group practice" means a partnership, association, corporation, or other group of health professionals:

(a) The members of which may be individual health professionals, clinics, or both individuals and clinics who engage in the coordinated practice of their profession; and

(b) The members of which are compensated by a prearranged salary, or by capitation payment or drawing account that is based on the number of enrolled participants.

(12) "Health maintenance agreement" means an agreement for services between a health maintenance organization which is registered pursuant to the provisions of this chapter and enrolled participants of such organization which provides enrolled participants with comprehensive health services rendered to enrolled participants by health professionals, groups, facilities, and other personnel associated with the health maintenance organization.

(13) "Health maintenance organization" means any organization receiving a certificate of registration by the commissioner under this chapter which provides comprehensive health care services to enrolled participants of such organization on a group practice per capita prepayment basis or on a prepaid individual practice plan, except for an enrolled participant's responsibility for copayments and/or deductibles, either directly or through contractual or other arrangements with other institutions, entities, or persons, and which qualifies as a health maintenance organization pursuant to RCW 48.46.030 and 48.46.040.

(14) "Health professionals" means health care practitioners who are regulated by the state of Washington.

(15) "Individual practice health care plan" means an association of health professionals in private practice who associate for the purpose of providing

prepaid comprehensive health care services on a fee-for-service or capitation basis.

(16) "Insolvent" or "insolvency" means that the organization has been declared insolvent and is placed under an order of liquidation by a court of competent jurisdiction.

(17) "Meaningful ((~~grievance~~)) appeal procedure" and "meaningful adverse determination review procedure" means a procedure for investigation of consumer ((~~grievances~~)) appeals and adverse review determinations in a timely manner aimed at mutual agreement for settlement according to procedures approved by the commissioner, and which may include arbitration procedures.

(18) "Meaningful role in policy making" means a procedure approved by the commissioner which provides consumers or elected representatives of consumers a means of submitting the views and recommendations of such consumers to the governing board of such organization coupled with reasonable assurance that the board will give regard to such views and recommendations.

(19) "Net worth" means the excess of total admitted assets as defined in RCW 48.12.010 over total liabilities but the liabilities shall not include fully subordinated debt.

(20) "Participating provider" means a provider as defined in subsection (21) of this section who contracts with the health maintenance organization or with its contractor or subcontractor and has agreed to provide health care services to enrolled participants with an expectation of receiving payment, other than copayment or deductible, directly or indirectly, from the health maintenance organization.

(21) "Provider" means any health professional, hospital, or other institution, organization, or person that furnishes any health care services and is licensed or otherwise authorized to furnish such services.

(22) "Replacement coverage" means the benefits provided by a succeeding carrier.

(23) "Uncovered expenditures" means the costs to the health maintenance organization of health care services that are the obligation of the health maintenance organization for which an enrolled participant would also be liable in the event of the health maintenance organization's insolvency and for which no alternative arrangements have been made as provided herein. The term does not include expenditures for covered services when a provider has agreed not to bill the enrolled participant even though the provider is not paid by the health maintenance organization, or for services that are guaranteed, insured, or assumed by a person or organization other than the health maintenance organization.

Sec. 23. RCW 48.46.030 and 1990 c 119 s 2 are each amended to read as follows:

Any corporation, cooperative group, partnership, individual, association, or groups of health professionals licensed by the state of Washington, public hospital district, or public institutions of higher education shall be entitled to a certificate of registration from the insurance commissioner as a health maintenance organization if it:

(1) Provides comprehensive health care services to enrolled participants on a group practice per capita prepayment basis or on a prepaid individual practice plan and provides such health services either directly or through arrangements

with institutions, entities, and persons which its enrolled population might reasonably require as determined by the health maintenance organization in order to be maintained in good health; and

(2) Is governed by a board elected by enrolled participants, or otherwise provides its enrolled participants with a meaningful role in policy making procedures of such organization, as defined in RCW 48.46.020((~~(7)~~)) (18), and 48.46.070; and

(3) Affords enrolled participants with a meaningful ((~~grievance~~)) appeal procedure aimed at settlement of disputes between such persons and such health maintenance organization, as defined in RCW 48.46.020((~~(8)~~)) (17) and 48.46.100; and

(4) Provides enrolled participants, or makes available for inspection at least annually, financial statements pertaining to health maintenance agreements, disclosing income and expenses, assets and liabilities, and the bases for proposed rate adjustments for health maintenance agreements relating to its activity as a health maintenance organization; and

(5) Demonstrates to the satisfaction of the commissioner that its facilities and personnel are reasonably adequate to provide comprehensive health care services to enrolled participants and that it is financially capable of providing such members with, or has made adequate contractual arrangements through insurance or otherwise to provide such members with, such health services; and

(6) Substantially complies with administrative rules and regulations of the commissioner for purposes of this chapter; and

(7) Submits an application for a certificate of registration which shall be verified by an officer or authorized representative of the applicant, being in form as the commissioner prescribes, and setting forth:

(a) A copy of the basic organizational document, if any, of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;

(b) A copy of the bylaws, rules and regulations, or similar documents, if any, which regulate the conduct of the internal affairs of the applicant, and all amendments thereto;

(c) A list of the names, addresses, members of the board of directors, board of trustees, executive committee, or other governing board or committee and the principal officers, partners, or members;

(d) A full and complete disclosure of any financial interests held by any officer, or director in any provider associated with the applicant or any provider of the applicant;

(e) A description of the health maintenance organization, its facilities and its personnel, and the applicant's most recent financial statement showing such organization's assets, liabilities, income, and other sources of financial support;

(f) A description of the geographic areas and the population groups to be served and the size and composition of the anticipated enrollee population;

(g) A copy of each type of health maintenance agreement to be issued to enrolled participants;

(h) A schedule of all proposed rates of reimbursement to contracting health care facilities or providers, if any, and a schedule of the proposed charges for

enrollee coverage for health care services, accompanied by data relevant to the formulation of such schedules;

(i) A description of the proposed method and schedule for soliciting enrollment in the applicant health maintenance organization and the basis of compensation for such solicitation services;

(j) A copy of the solicitation document to be distributed to all prospective enrolled participants in connection with any solicitation;

(k) A financial projection which sets forth the anticipated results during the initial two years of operation of such organization, accompanied by a summary of the assumptions and relevant data upon which the projection is based. The projection should include the projected expenses, enrollment trends, income, enrollee utilization patterns, and sources of working capital;

(l) ((~~A detailed description of the enrollee complaint system as provided by RCW 48.46.100;~~

~~(m)~~)) A detailed description of the procedures and programs to be implemented to assure that the health care services delivered to enrolled participants will be of professional quality;

(((~~(n)~~))) (m) A detailed description of procedures to be implemented to meet the requirements to protect against insolvency in RCW 48.46.245;

(((~~(o)~~))) (n) Documentation that the health maintenance organization has an initial net worth of one million dollars and shall thereafter maintain the minimum net worth required under RCW 48.46.235; and

(((~~(p)~~))) (o) Such other information as the commissioner shall require by rule or regulation which is reasonably necessary to carry out the provisions of this section.

A health maintenance organization shall, unless otherwise provided for in this chapter, file a notice describing any modification of any of the information required by subsection (7) of this section. Such notice shall be filed with the commissioner.

Sec. 24. RCW 48.46.040 and 2009 c 549 s 7150 are each amended to read as follows:

The commissioner shall issue a certificate of registration to the applicant within sixty days of such filing unless he or she notifies the applicant within such time that such application is not complete and the reasons therefor; or that he or she is not satisfied that:

(1) The basic organizational document of the applicant permits the applicant to conduct business as a health maintenance organization;

(2) The organization has demonstrated the intent and ability to assure that comprehensive health care services will be provided in a manner to assure both their availability and accessibility;

(3) The organization is financially responsible and may be reasonably expected to meet its obligations to its enrolled participants. In making this determination, the commissioner shall consider among other relevant factors:

(a) Any agreements with an insurer, a medical or hospital service bureau, a government agency or any other organization paying or insuring payment for health care services;

(b) ((~~Any agreements with providers for the provision of health care services;~~

((c)) Any arrangements for liability and malpractice insurance coverage; and

(((d))) (c) Adequate procedures to be implemented to meet the protection against insolvency requirements in RCW 48.46.245;

(4) The procedures for offering health care services and offering or terminating contracts with enrolled participants are reasonable and equitable in comparison with prevailing health insurance subscription practices and health maintenance organization enrollment procedures; and, that

(5) Procedures have been established to:

(a) Monitor the quality of care provided by such organization, including, as a minimum, procedures for internal peer review;

(b) ((Resolve complaints and grievances initiated by enrolled participants in accordance with RCW 48.46.010 and 48.46.100;

(c)) Offer enrolled participants an opportunity to participate in matters of policy and operation in accordance with RCW 48.46.020(((7))) (18) and 48.46.070.

No person to whom a certificate of registration has not been issued, except a health maintenance organization certified by the secretary of the department of health and human services, pursuant to Public Law 93-222 or its successor, shall use the words "health maintenance organization" or the initials "HMO" in its name, contracts, or literature. Persons who are contracting with, operating in association with, recruiting enrolled participants for, or otherwise authorized by a health maintenance organization possessing a certificate of registration to act on its behalf may use the terms "health maintenance organization" or "HMO" for the limited purpose of denoting or explaining their relationship to such health maintenance organization.

The department of health, at the request of the insurance commissioner, shall inspect and review the facilities of every applicant health maintenance organization to determine that such facilities are reasonably adequate to provide the health care services offered in their contracts. If the commissioner has information to indicate that such facilities fail to continue to be adequate to provide the health care services offered, the department of health, upon request of the insurance commissioner, shall reinspect and review the facilities and report to the insurance commissioner as to their adequacy or inadequacy.

Sec. 25. RCW 48.41.110 and 2011 c 315 s 6 are each amended to read as follows:

(1) The pool shall offer one or more care management plans of coverage. Such plans may, but are not required to, include point of service features that permit participants to receive in-network benefits or out-of-network benefits subject to differential cost shares. The pool may incorporate managed care features into existing plans.

(2) The administrator shall prepare a brochure outlining the benefits and exclusions of pool policies in plain language. After approval by the board, such brochure shall be made reasonably available to participants or potential participants.

(3) The health insurance policies issued by the pool shall pay only reasonable amounts for medically necessary eligible health care services rendered or furnished for the diagnosis or treatment of covered illnesses, injuries, and conditions. Eligible expenses are the reasonable amounts for the

health care services and items for which benefits are extended under a pool policy.

(4) The pool shall offer at least two policies, one of which will be a comprehensive policy that must comply with RCW 48.41.120 and must at a minimum include the following services or related items:

(a) Hospital services, including charges for the most common semiprivate room, for the most common private room if semiprivate rooms do not exist in the health care facility, or for the private room if medically necessary, including no less than a total of one hundred eighty inpatient days in a calendar year, and no less than thirty days inpatient care for alcohol, drug, or chemical dependency or abuse per calendar year;

(b) Professional services including surgery for the treatment of injuries, illnesses, or conditions, other than dental, which are rendered by a health care provider, or at the direction of a health care provider, by a staff of registered or licensed practical nurses, or other health care providers;

(c) No less than twenty outpatient professional visits for the diagnosis or treatment of alcohol, drug, or chemical dependency or abuse rendered during a calendar year by a state-certified chemical dependency program approved under chapter 70.96A RCW, or by one or more physicians, psychologists, or community mental health professionals, or, at the direction of a physician, by other qualified licensed health care practitioners;

(d) Drugs and contraceptive devices requiring a prescription;

(e) Services of a skilled nursing facility, excluding custodial and convalescent care, for not less than one hundred days in a calendar year as prescribed by a physician;

(f) Services of a home health agency;

(g) Chemotherapy, radioisotope, radiation, and nuclear medicine therapy;

(h) Oxygen;

(i) Anesthesia services;

(j) Prostheses, other than dental;

(k) Durable medical equipment which has no personal use in the absence of the condition for which prescribed;

(l) Diagnostic x-rays and laboratory tests;

(m) Oral surgery including at least the following: Fractures of facial bones; excisions of mandibular joints, lesions of the mouth, lip, or tongue, tumors, or cysts excluding treatment for temporomandibular joints; incision of accessory sinuses, mouth salivary glands or ducts; dislocations of the jaw; plastic reconstruction or repair of traumatic injuries occurring while covered under the pool; and excision of impacted wisdom teeth;

(n) Maternity care services;

(o) Services of a physical therapist and services of a speech therapist;

(p) Hospice services;

(q) Professional ambulance service to the nearest health care facility qualified to treat the illness or injury;

(r) Mental health services pursuant to RCW 48.41.220; and

(s) Other medical equipment, services, or supplies required by physician's orders and medically necessary and consistent with the diagnosis, treatment, and condition.

(5) The board shall design and employ cost containment measures and requirements such as, but not limited to, care coordination, provider network limitations, preadmission certification, and concurrent inpatient review which may make the pool more cost-effective.

(6) The pool benefit policy may contain benefit limitations, exceptions, and cost shares such as copayments, coinsurance, and deductibles that are consistent with managed care products, except that differential cost shares may be adopted by the board for nonnetwork providers under point of service plans. No limitation, exception, or reduction may be used that would exclude coverage for any disease, illness, or injury.

(7)(a) The pool may not reject an individual for health plan coverage based upon preexisting conditions of the individual or deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that it shall impose a six-month benefit waiting period for preexisting conditions for which medical advice was given, for which a health care provider recommended or provided treatment, or for which a prudent layperson would have sought advice or treatment, within six months before the effective date of coverage. The preexisting condition waiting period shall not apply to prenatal care services or benefits for outpatient prescription drugs. The pool may not avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. Credit against the waiting period shall be as provided in subsection (8) of this section.

(b) The pool shall not impose any preexisting condition waiting period for any person under the age of nineteen.

(8)(a) Except as provided in (b) of this subsection, the pool shall credit any preexisting condition waiting period in its plans for a person who was enrolled at any time during the sixty-three day period immediately preceding the date of application for the new pool plan. For the person previously enrolled in a group health benefit plan, the pool must credit the aggregate of all periods of preceding coverage not separated by more than sixty-three days toward the waiting period of the new health plan. For the person previously enrolled in an individual health benefit plan other than a catastrophic health plan, the pool must credit the period of coverage the person was continuously covered under the immediately preceding health plan toward the waiting period of the new health plan. For the purposes of this subsection, a preceding health plan includes an employer-provided self-funded health plan.

(b) The pool shall waive any preexisting condition waiting period for a person who is an eligible individual as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. 300gg-41(b)).

(9) If an application is made for the pool policy as a result of rejection by a carrier, then the date of application to the carrier, rather than to the pool, should govern for purposes of determining preexisting condition credit.

(10) The pool shall contract with organizations that provide care management that has been demonstrated to be effective and shall encourage enrollees who are eligible for care management services to participate. The pool may encourage the use of shared decision making and certified decision aids for preference-sensitive care areas.

Sec. 26. RCW 48.43.510 and 2009 c 304 s 1 are each amended to read as follows:

(1) A carrier that offers a health plan may not offer to sell a health plan to an enrollee or to any group representative, agent, employer, or enrollee representative without first offering to provide, and providing upon request, the following information before purchase or selection:

(a) A listing of covered benefits, including prescription drug benefits, if any, a copy of the current formulary, if any is used, definitions of terms such as generic versus brand name, and policies regarding coverage of drugs, such as how they become approved or taken off the formulary, and how consumers may be involved in decisions about benefits;

(b) A listing of exclusions, reductions, and limitations to covered benefits, and any definition of medical necessity or other coverage criteria upon which they may be based;

(c) A statement of the carrier's policies for protecting the confidentiality of health information;

(d) A statement of the cost of premiums and any enrollee cost-sharing requirements;

(e) A summary explanation of the carrier's review of adverse benefit determinations and grievance processes;

(f) A statement regarding the availability of a point-of-service option, if any, and how the option operates; and

(g) A convenient means of obtaining lists of participating primary care and specialty care providers, including disclosure of network arrangements that restrict access to providers within any plan network. The offer to provide the information referenced in this subsection (1) must be clearly and prominently displayed on any information provided to any prospective enrollee or to any prospective group representative, agent, employer, or enrollee representative.

(2) Upon the request of any person, including a current enrollee, prospective enrollee, or the insurance commissioner, a carrier must provide written information regarding any health care plan it offers, that includes the following written information:

(a) Any documents, instruments, or other information referred to in the medical coverage agreement;

(b) A full description of the procedures to be followed by an enrollee for consulting a provider other than the primary care provider and whether the enrollee's primary care provider, the carrier's medical director, or another entity must authorize the referral;

(c) Procedures, if any, that an enrollee must first follow for obtaining prior authorization for health care services;

(d) A written description of any reimbursement or payment arrangements, including, but not limited to, capitation provisions, fee-for-service provisions, and health care delivery efficiency provisions, between a carrier and a provider or network;

(e) Descriptions and justifications for provider compensation programs, including any incentives or penalties that are intended to encourage providers to withhold services or minimize or avoid referrals to specialists;

(f) An annual accounting of all payments made by the carrier which have been counted against any payment limitations, visit limitations, or other overall limitations on a person's coverage under a plan;

(g) A copy of the carrier's review of adverse benefit determinations grievance process for claim or service denial and its grievance process for dissatisfaction with care; and

(h) Accreditation status with one or more national managed care accreditation organizations, and whether the carrier tracks its health care effectiveness performance using the health employer data information set (HEDIS), whether it publicly reports its HEDIS data, and how interested persons can access its HEDIS data.

(3) Each carrier shall provide to all enrollees and prospective enrollees a list of available disclosure items.

(4) Nothing in this section requires a carrier or a health care provider to divulge proprietary information to an enrollee, including the specific contractual terms and conditions between a carrier and a provider.

(5) No carrier may advertise or market any health plan to the public as a plan that covers services that help prevent illness or promote the health of enrollees unless it:

(a) Provides all clinical preventive health services provided by the basic health plan, authorized by chapter 70.47 RCW;

(b) Monitors and reports annually to enrollees on standardized measures of health care and satisfaction of all enrollees in the health plan. The state department of health shall recommend appropriate standardized measures for this purpose, after consideration of national standardized measurement systems adopted by national managed care accreditation organizations and state agencies that purchase managed health care services; and

(c) Makes available upon request to enrollees its integrated plan to identify and manage the most prevalent diseases within its enrolled population, including cancer, heart disease, and stroke.

(6) No carrier may preclude or discourage its providers from informing an enrollee of the care he or she requires, including various treatment options, and whether in the providers' view such care is consistent with the plan's health coverage criteria, or otherwise covered by the enrollee's medical coverage agreement with the carrier. No carrier may prohibit, discourage, or penalize a provider otherwise practicing in compliance with the law from advocating on behalf of an enrollee with a carrier. Nothing in this section shall be construed to authorize a provider to bind a carrier to pay for any service.

(7) No carrier may preclude or discourage enrollees or those paying for their coverage from discussing the comparative merits of different carriers with their providers. This prohibition specifically includes prohibiting or limiting providers participating in those discussions even if critical of a carrier.

(8) Each carrier must communicate enrollee information required in chapter 5, Laws of 2000 by means that ensure that a substantial portion of the enrollee population can make use of the information. Carriers may implement alternative, efficient methods of communication to ensure enrollees have access to information including, but not limited to, web site alerts, postcard mailings, and electronic communication in lieu of printed materials.

(9) The commissioner may adopt rules to implement this section. In developing rules to implement this section, the commissioner shall consider relevant standards adopted by national managed care accreditation organizations and state agencies that purchase managed health care services, as well as opportunities to reduce administrative costs included in health plans.

Passed by the House February 10, 2012.
Passed by the Senate March 1, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 212

[Engrossed Substitute House Bill 1627]

BOUNDARY REVIEW BOARDS—ANNEXATION

AN ACT Relating to limiting the authority of boundary review boards to expand an annexation to twice the area of the proposed annexation; and amending RCW 36.93.150.

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

Sec. 1. RCW 36.93.150 and 1994 c 216 s 15 are each amended to read as follows:

The board, upon review of any proposed action, shall take such of the following actions as it deems necessary to best carry out the intent of this chapter:

(1) Approve the proposal as submitted.

(2) Subject to RCW 35.02.170, modify the proposal by adjusting boundaries to add or delete territory. ((~~However, any proposal for annexation of territory to a town shall be subject to RCW 35.21.010 and the board shall not add additional territory, the amount of which is greater than that included in the original proposal.~~)) Subject to the requirements of this chapter, a board may modify a proposal by adding territory that would increase the total area of the proposal before the board. A board, however, may not modify a proposal for annexation of territory to a city or town by adding an amount of territory that constitutes more than one hundred percent of the total area of the proposal before the board. Any modifications shall not interfere with the authority of a city, town, or special purpose district to require or not require preannexation agreements, covenants, or petitions. A board shall not modify the proposed incorporation of a city with an estimated population of seven thousand five hundred or more by removing territory from the proposal, or adding territory to the proposal, that constitutes ten percent or more of the total area included within the proposal before the board. However, a board shall remove territory in the proposed incorporation that is located outside of an urban growth area or is annexed by a city or town, and may remove territory in the proposed incorporation if a petition or resolution proposing the annexation is filed or adopted that has priority over the proposed incorporation, before the area is established that is subject to this ten percent restriction on removing or adding territory. A board shall not modify the proposed incorporation of a city with a population of seven thousand five hundred or more to reduce the territory in such a manner as to reduce the population below seven thousand five hundred.

(3) Determine a division of assets and liabilities between two or more governmental units where relevant.

(4) Determine whether, or the extent to which, functions of a special purpose district are to be assumed by an incorporated city or town, metropolitan municipal corporation, or another existing special purpose district.

(5) Disapprove the proposal except that the board shall not have jurisdiction: (a) To disapprove the dissolution or disincorporation of a special purpose district which is not providing services but shall have jurisdiction over the determination of a division of the assets and liabilities of a dissolved or disincorporated special purpose district; (b) over the division of assets and liabilities of a special purpose district that is dissolved or disincorporated pursuant to chapter 36.96 RCW; nor (c) to disapprove the incorporation of a city with an estimated population of seven thousand five hundred or more, but the board may recommend against the proposed incorporation of a city with such an estimated population.

Unless the board disapproves a proposal, it shall be presented under the appropriate statute for approval of a public body and, if required, a vote of the people. A proposal that has been modified shall be presented under the appropriate statute for approval of a public body and if required, a vote of the people. If a proposal, other than that for a city, town, or special purpose district annexation, after modification does not contain enough signatures of persons within the modified area, as are required by law, then the initiating party, parties or governmental unit has thirty days after the modification decision to secure enough signatures to satisfy the legal requirement. If the signatures cannot be secured then the proposal may be submitted to a vote of the people, as required by law.

The addition or deletion of property by the board shall not invalidate a petition which had previously satisfied the sufficiency of signature provisions of RCW 35.13.130 or 35A.14.120. When the board, after due proceedings held, disapproves a proposed action, such proposed action shall be unavailable, the proposing agency shall be without power to initiate the same or substantially the same as determined by the board, and any succeeding acts intended to or tending to effectuate that action shall be void, but such action may be reinitiated after a period of twelve months from date of disapproval and shall again be subject to the same consideration.

The board shall not modify or deny a proposed action unless there is evidence on the record to support a conclusion that the action is inconsistent with one or more of the objectives under RCW 36.93.180. The board may not increase the area of a city or town annexation unless it holds a separate public hearing on the proposed increase and provides ten or more days' notice of the hearing to the registered voters and property owners residing within the area subject to the proposed increase. Every such determination to modify or deny a proposed action shall be made in writing pursuant to a motion, and shall be supported by appropriate written findings and conclusions, based on the record.

Passed by the House March 5, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 213

[Substitute House Bill 2194]

MANUFACTURED/MOBILE HOME LANDLORD TENANT ACT

AN ACT Relating to modifying the manufactured/mobile home landlord tenant act and other related provisions; amending RCW 59.20.060, 59.20.070, 59.20.073, 59.20.080, and 59.20.200; and reenacting and amending RCW 59.30.020.

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

Sec. 1. RCW 59.20.060 and 2006 c 296 s 2 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 rental agreement; (B) be set off by means of a box, blank space, or comparable visual device; 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 written description, picture, plan, or map 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 written description, picture, plan, or map of the location of the tenant's responsibility for utility hook-ups, consistent with RCW 59.20.130(6);

(l) A statement of the current zoning of the land on which the mobile home park is located; and

((~~(l)~~)) (m) 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.

(3) Any provision prohibited under this section that is included in a rental agreement is unenforceable.

Sec. 2. RCW 59.20.070 and 2003 c 127 s 2 are each amended to read as follows:

A landlord shall not:

(1) Deny any tenant the right to sell such tenant's mobile home, manufactured home, or park model within a park, or prohibit, in any manner, any tenant from posting on the tenant's manufactured/mobile home or park model, or on the rented mobile home lot, a commercially reasonable "for sale" sign or any similar sign designed to advertise the sale of the manufactured/mobile home or park model. In addition, a landlord shall not require the removal of the mobile home, manufactured home, or park model from the park because of the sale thereof. Requirements for the transfer of the rental agreement are in RCW 59.20.073. Nothing in this subsection prohibits a landlord from enforcing reasonable rules or restrictions regarding the placement of "for sale" signs on the tenant's manufactured/mobile home or park model, or on the rented mobile home lot, if (a) the main purpose of the rules or restrictions is to protect the safety of park tenants or residents and (b) the rules or restrictions comply with RCW 59.20.045. The landlord may restrict the number of "for sale" signs on the lot to two and may restrict the size of the signs to conform to those in common use by home sale businesses;

(2) Restrict the tenant's freedom of choice in purchasing goods or services but may reserve the right to approve or disapprove any exterior structural improvements on a mobile home space: PROVIDED, That door-to-door solicitation in the mobile home park may be restricted in the rental agreement. Door-to-door solicitation does not include public officials or candidates for public office meeting or distributing information to tenants in accordance with subsection (3) or (4) of this section;

(3) Prohibit the distribution of information or meetings by tenants of the mobile home park to discuss mobile home living and affairs, including political caucuses or forums for or speeches of public officials or candidates for public office, or meetings of organizations that represent the interest of tenants in the park, held in a tenant's home or any of the park community or recreation halls if these halls are open for the use of the tenants, conducted at reasonable times and in an orderly manner on the premises, nor penalize any tenant for participation in such activities;

(4) Prohibit a public official or candidate for public office from meeting with or distributing information to tenants in their individual mobile homes, manufactured homes, or park models, nor penalize any tenant for participating in these meetings or receiving this information;

(5) Evict a tenant, terminate a rental agreement, decline to renew a rental agreement, increase rental or other tenant obligations, decrease services, or modify park rules in retaliation for any of the following actions on the part of a tenant taken in good faith:

(a) Filing a complaint with any federal, state, county, or municipal governmental authority relating to any alleged violation by the landlord of an applicable statute, regulation, or ordinance;

(b) Requesting the landlord to comply with the provision of this chapter or other applicable statute, regulation, or ordinance of the state, county, or municipality;

(c) Filing suit against the landlord for any reason;

(d) Participation or membership in any homeowners association or group;

(6) Charge to any tenant a utility fee in excess of actual utility costs or intentionally cause termination or interruption of any tenant's utility services, including water, heat, electricity, or gas, except when an interruption of a reasonable duration is required to make necessary repairs;

(7) Remove or exclude a tenant from the premises unless this chapter is complied with or the exclusion or removal is under an appropriate court order; or

(8) Prevent the entry or require the removal of a mobile home, manufactured home, or park model for the sole reason that the mobile home has reached a certain age. Nothing in this subsection shall limit a landlords' right to exclude or expel a mobile home, manufactured home, or park model for any other reason, including but not limited to, failure to comply with fire, safety, and other provisions of local ordinances and state laws relating to mobile homes, manufactured homes, and park models, as long as the action conforms to this chapter or any other relevant statutory provision.

Sec. 3. RCW 59.20.073 and 2003 c 127 s 3 are each amended to read as follows:

(1) Any rental agreement shall be assignable by the tenant to any person to whom he or she sells or transfers title to the mobile home, manufactured home, or park model.

(2) A tenant who sells a mobile home, manufactured home, or park model within a park shall notify the landlord in writing of the date of the intended sale and transfer of the rental agreement at least fifteen days in advance of such intended transfer and shall notify the buyer in writing of the provisions of this section. The tenant shall verify in writing to the landlord payment of all taxes, rent, and reasonable expenses due on the mobile home, manufactured home, or park model and mobile home lot. <u>The tenant shall notify the buyer of all taxes, rent, and reasonable expenses due on the manufactured/mobile home or park model and the mobile home lot.</u>

(3) The landlord shall notify the selling tenant, in writing, of a refusal to permit transfer of the rental agreement at least seven days in advance of such intended transfer.

(4) The landlord may require the mobile home, manufactured home, or park model to meet applicable fire and safety standards if a state or local agency responsible for the enforcement of fire and safety standards has issued a notice of violation of those standards to the tenant and those violations remain uncorrected. Upon correction of the violation to the satisfaction of the state or local agency responsible for the enforcement of that notice of violation, the landlord's refusal to permit the transfer is deemed withdrawn.

(5) The landlord shall approve or disapprove of the assignment of a rental agreement on the same basis that the landlord approves or disapproves of any new tenant, and any disapproval shall be in writing. Consent to an assignment shall not be unreasonably withheld.

(6) Failure to notify the landlord in writing, as required under subsection (2) of this section; or failure of the new tenant to make a good faith attempt to arrange an interview with the landlord to discuss assignment of the rental agreement; or failure of the current or new tenant to obtain written approval of the landlord for assignment of the rental agreement, shall be grounds for disapproval of such transfer.

Sec. 4. RCW 59.20.080 and 2003 c 127 s 4 are each amended to read as follows:

(1) A landlord shall not terminate or fail to renew a tenancy of a tenant or the occupancy of an occupant, of whatever duration except for one or more of the following reasons:

(a) Substantial violation, or repeated or periodic violations, of ((~~the~~)) an enforceable rule((~~s~~)) of the mobile home park as established by the landlord at the inception of the tenancy or as assumed subsequently with the consent of the tenant or for violation of the tenant's duties as provided in RCW 59.20.140. The tenant shall be given written notice to cease the rule violation immediately. The notice shall state that failure to cease the violation of the rule or any subsequent violation of that or any other rule shall result in termination of the tenancy, and that the tenant shall vacate the premises within fifteen days: PROVIDED, That for a periodic violation the notice shall also specify that repetition of the same violation shall result in termination: PROVIDED FURTHER, That in the case of a violation of a "material change" in park rules with respect to pets, tenants with minor children living with them, or recreational facilities, the tenant shall be given written notice under this chapter of a six month period in which to comply or vacate;

(b) Nonpayment of rent or other charges specified in the rental agreement, upon five days written notice to pay rent and/or other charges or to vacate;

(c) Conviction of the tenant of a crime, commission of which threatens the health, safety, or welfare of the other mobile home park tenants. The tenant shall be given written notice of a fifteen day period in which to vacate;

(d) Failure of the tenant to comply with local ordinances and state laws and regulations relating to mobile homes, manufactured homes, or park models or mobile home, manufactured homes, or park model living within a reasonable time after the tenant's receipt of notice of such noncompliance from the appropriate governmental agency;

(e) Change of land use of the mobile home park including, but not limited to, conversion to a use other than for mobile homes, manufactured homes, or park models or conversion of the mobile home park to a mobile home park cooperative or mobile home park subdivision((~~: PROVIDED, That~~)). The landlord shall give the tenants twelve months' notice in advance of the effective date of such change((~~, except that for the period of six months following April 28, 1989, the landlord shall give the tenants eighteen months' notice in advance of the proposed effective date of such change~~));

(f) Engaging in "criminal activity." "Criminal activity" means a criminal act defined by statute or ordinance that threatens the health, safety, or welfare of the tenants. A park owner seeking to evict a tenant or occupant under this subsection need not produce evidence of a criminal conviction, even if the alleged misconduct constitutes a criminal offense. Notice from a law enforcement agency of criminal activity constitutes sufficient grounds, but not the only grounds, for an eviction under this subsection. Notification of the seizure of illegal drugs under RCW 59.20.155 is evidence of criminal activity and is grounds for an eviction under this subsection. The requirement that any tenant or occupant register as a sex offender under RCW 9A.44.130 is grounds for eviction of the sex offender under this subsection. If criminal activity is

alleged to be a basis of termination, the park owner may proceed directly to an unlawful detainer action;

(g) The tenant's application for tenancy contained a material misstatement that induced the park owner to approve the tenant as a resident of the park, and the park owner discovers and acts upon the misstatement within one year of the time the resident began paying rent;

(h) If the landlord serves a tenant three fifteen-day notices within a twelve-month period to comply or vacate for failure to comply with the material terms of the rental agreement or an enforceable park rule((~~s~~)). The applicable twelve-month period shall commence on the date of the first violation;

(i) Failure of the tenant to comply with obligations imposed upon tenants by applicable provisions of municipal, county, and state codes, statutes, ordinances, and regulations, including this chapter. The landlord shall give the tenant written notice to comply immediately. The notice must state that failure to comply will result in termination of the tenancy and that the tenant shall vacate the premises within fifteen days;

(j) The tenant engages in disorderly or substantially annoying conduct upon the park premises that results in the destruction of the rights of others to the peaceful enjoyment and use of the premises. The landlord shall give the tenant written notice to comply immediately. The notice must state that failure to comply will result in termination of the tenancy and that the tenant shall vacate the premises within fifteen days;

(k) The tenant creates a nuisance that materially affects the health, safety, and welfare of other park residents. The landlord shall give the tenant written notice to cease the conduct that constitutes a nuisance immediately. The notice must describe the nuisance and state (i) what the tenant must do to cease the nuisance and (ii) that failure to cease the conduct will result in termination of the tenancy and that the tenant shall vacate the premises in five days;

(l) Any other substantial just cause that materially affects the health, safety, and welfare of other park residents. The landlord shall give the tenant written notice to comply immediately. The notice must describe the harm caused by the tenant, describe what the tenant must do to comply and to discontinue the harm, and state that failure to comply will result in termination of the tenancy and that the tenant shall vacate the premises within fifteen days; or

(m) Failure to pay rent by the due date provided for in the rental agreement three or more times in a twelve-month period, commencing with the date of the first violation, after service of a five-day notice to comply or vacate.

(2) Within five days of a notice of eviction as required by subsection (1)(a) of this section, the landlord and tenant shall submit any dispute to mediation. The parties may agree in writing to mediation by an independent third party or through industry mediation procedures. If the parties cannot agree, then mediation shall be through industry mediation procedures. A duty is imposed upon both parties to participate in the mediation process in good faith for a period of ten days for an eviction under subsection (1)(a) of this section. It is a defense to an eviction under subsection (1)(a) of this section that a landlord did not participate in the mediation process in good faith.

(3) Chapters 59.12 and 59.18 RCW govern the eviction of recreational vehicles, as defined in RCW 59.20.030, from mobile home parks. This chapter

governs the eviction of mobile homes, manufactured homes, park models, and recreational vehicles used as a primary residence from a mobile home park.

Sec. 5. RCW 59.20.200 and 1984 c 58 s 6 are each amended to read as follows:

If at any time during the tenancy the landlord fails to carry out the duties required by RCW 59.20.130, the tenant may, in addition to pursuit of remedies otherwise provided the tenant by law, deliver written notice to the landlord, which notice shall specify the property involved, the name of the owner, if known, and the nature of the defective condition. For the purposes of this chapter, a reasonable time for the landlord to commence remedial action after receipt of such notice by the tenant shall be, except where circumstances are beyond the landlord's control;

(1) Not more than twenty-four hours, where the defective condition is imminently hazardous to life;

(2) Not more than forty-eight hours, where the landlord fails to provide water ((~~or heat~~)), electricity, or sewer or septic service to the extent required under RCW 59.20.130(6);

(3) Subject to the provisions of subsections (1) and (2) of this section, not more than seven days in the case of a repair under RCW 59.20.130(3);

(4) Not more than thirty days in all other cases.

In each instance the burden shall be on the landlord to see that remedial work under this section is completed with reasonable promptness.

Where circumstances beyond the landlord's control, including the availability of financing, prevent the landlord from complying with the time limitations set forth in this section, the landlord shall endeavor to remedy the defective condition with all reasonable speed.

Sec. 6. RCW 59.30.020 and 2011 c 298 s 30 are each reenacted and amended to read as follows:

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

(1) "Complainant" means a landlord, community owner, or tenant, who has a complaint alleging a violation of chapter 59.20 RCW.

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

(3) "Director" means the director of revenue.

(4) "Landlord" or "community owner" means the owner of a mobile home park or a manufactured housing community and includes the agents of a landlord.

(5) "Manufactured home" means a single-family dwelling built according to the United States department of housing and urban development manufactured home construction and safety standards act, which is a national preemptive building code. A manufactured home also: (a) Includes plumbing, heating, air conditioning, and electrical systems; (b) is built on a permanent chassis; and (c) can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported, or when installed on the site is three hundred twenty square feet or greater.

(6) "Manufactured/mobile home" means either a manufactured home or a mobile home.

(7) "Manufactured/mobile home lot" means a portion of a manufactured/mobile home community designated as the location of one mobile home, manufactured home, or park model and its accessory buildings, and intended for the exclusive use as a primary residence by the occupants of that mobile home, manufactured home, or park model.

(8) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the United States department of housing and urban development code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the United States department of housing and urban development manufactured home construction and safety act.

(9) "Mobile home park," "manufactured housing community," or "manufactured/mobile home community" means any real property that is rented or held out for rent to others for the placement of two or more mobile homes, manufactured homes, or park models, ((~~or recreational vehicles~~)) for the primary purpose of production of income, except where the real property is rented or held out for rent for seasonal recreational purposes only and is not ((~~used~~)) intended for year-round occupancy.

(10) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or part of the legal title to the real property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the real property.

(11) "Park model" means a recreational vehicle intended for permanent or semipermanent installation and is used as a ((~~permanent~~)) primary residence.

(12) "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 ((~~permanent~~)) primary residence ((~~located in a mobile home park or manufactured housing community~~)), and is not immobilized or permanently affixed to a manufactured/mobile home lot.

(13) "Respondent" means a landlord, community owner, or tenant, alleged to have committed a violation of chapter 59.20 RCW.

(14) "Tenant" means any person, except a transient as defined in RCW 59.20.030, who rents a mobile home lot.

Passed by the House January 23, 2012.
Passed by the Senate March 2, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 214

[Engrossed Substitute House Bill 2197]
UNIFORM COMMERCIAL CODE

AN ACT Relating to the Uniform Commercial Code; amending RCW 62A.1-101, 62A.1-102, 62A.1-103, 62A.1-104, 62A.1-105, 62A.1-106, 62A.1-107, 62A.1-108, 62A.1-201, 62A.1-202, 62A.1-203, 62A.1-204, 62A.1-205, 62A.1-206, 62A.7-101, 62A.7-102, 62A.7-103, 62A.7-104, 62A.7-105, 62A.7-201, 62A.7-202, 62A.7-203, 62A.7-204, 62A.7-205, 62A.7-206, 62A.7-207, 62A.7-208, 62A.7-209, 62A.7-210, 62A.7-301, 62A.7-302, 62A.7-303, 62A.7-304, 62A.7-305, 62A.7-307, 62A.7-308, 62A.7-309, 62A.7-401, 62A.7-402, 62A.7-403, 62A.7-404, 62A.7-501,

62A.7-502, 62A.7-503, 62A.7-504, 62A.7-505, 62A.7-506, 62A.7-507, 62A.7-508, 62A.7-509, 62A.7-601, 62A.7-602, 62A.7-603, 62A.2-103, 62A.2-104, 62A.2-202, 62A.2-310, 62A.2-323, 62A.2-401, 62A.2-503, 62A.2-505, 62A.2-506, 62A.2-509, 62A.2-605, 62A.2-705, 62A.2A-103, 62A.2A-103, 62A.2A-501, 62A.2A-514, 62A.2A-518, 62A.2A-519, 62A.2A-526, 62A.2A-527, 62A.2A-528, 62A.3-103, 62A.4-104, 62A.4-210, 62A.4A-105, 62A.4A-106, 62A.4A-204, 62A.5-103, 62A.8-102, 62A.8-103, 62A.8-103, 62A.9A-102, 62A.9A-102, 62A.9A-203, 62A.9A-207, 62A.9A-208, 62A.9A-301, 62A.9A-310, 62A.9A-310, 62A.9A-312, 62A.9A-313, 62A.9A-313, 62A.9A-314, 62A.9A-317, 62A.9A-317, 62A.9A-338, 62A.9A-338, 62A.9A-601, 62A.9A-601, 62A.5-102, 62A.5-104, 62A.5-106, 62A.5-107, 62A.5-108, 62A.5-109, 62A.5-110, 62A.5-111, 62A.5-112, 62A.5-113, 62A.5-114, 62A.5-116, 62A.5-117, 62A.5-118, 62A.2-512, and 62A.9A-107; adding new sections to chapter 62A.1 RCW; adding a new section to chapter 62A.7 RCW; creating new sections; repealing RCW 62A.1-109, 62A.1-207, 62A.1-208, 62A.2-208, 62A.2A-207, and 62A.10-104; repealing 2011 c 74 s 801; providing an effective date; and providing an expiration date.

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

PART I
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 1

Sec. 101. RCW 62A.1-101 and 1965 ex.s. c 157 s 1-101 are each amended to read as follows:

SHORT TITLES. (a) This title ((~~shall be known and~~)) may be cited as the Uniform Commercial Code.

(b) This Article may be cited as Uniform Commercial Code—General Provisions.

Sec. 102. RCW 62A.1-102 and 1965 ex.s. c 157 s 1-102 are each amended to read as follows:

((~~PURPOSES; RULES OF CONSTRUCTION; VARIATION BY AGREEMENT.~~)) SCOPE OF ARTICLE. (((~~(1) This Title shall be liberally construed and applied to promote its underlying purposes and policies.~~

~~(2) Underlying purposes and policies of this Title are~~

~~(a) to simplify, clarify and modernize the law governing commercial transactions;~~

~~(b) to permit the continued expansion of commercial practices through custom, usage and agreement of the parties;~~

~~(c) to make uniform the law among the various jurisdictions.~~

~~(3) The effect of provisions of this Title may be varied by agreement, except as otherwise provided in this Title and except that the obligations of good faith, diligence, reasonableness and care prescribed by this Title may not be disclaimed by agreement but the parties may by agreement determine the standards by which the performance of such obligations is to be measured if such standards are not manifestly unreasonable.~~

~~(4) The presence in certain provisions of this Title of the words "unless otherwise agreed" or words of similar import does not imply that the effect of other provisions may not be varied by agreement under subsection (3).~~

~~(5) In this Title unless the context otherwise requires~~

~~(a) words in the singular number include the plural, and in the plural include the singular;~~

~~(b) words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any~~

~~gender.~~)) This Article applies to a transaction to the extent that it is governed by another article of this title.

Sec. 103. RCW 62A.1-103 and 1965 ex.s. c 157 s 1-103 are each amended to read as follows:

((~~SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLICABLE.~~)) CONSTRUCTION OF UNIFORM COMMERCIAL CODE TO PROMOTE ITS PURPOSES AND POLICIES; APPLICABILITY OF SUPPLEMENTAL PRINCIPLES OF LAW. (a) This title must be liberally construed and applied to promote its underlying purposes and policies, which are:

(1) To simplify, clarify, and modernize the law governing commercial transactions;

(2) To permit the continued expansion of commercial practices through custom, usage, and agreement of the parties; and

(3) To make uniform the law among the various jurisdictions.

(b) Unless displaced by the particular provisions of this title, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, ((~~or~~)) and other validating or invalidating cause ((~~shall~~)) supplement its provisions.

Sec. 104. RCW 62A.1-104 and 1965 ex.s. c 157 s 1-104 are each amended to read as follows:

CONSTRUCTION AGAINST ((~~IMPLICIT~~)) IMPLIED REPEAL. This title being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

Sec. 105. RCW 62A.1-105 and 2001 c 32 s 8 are each amended to read as follows:

((~~TERRITORIAL APPLICATION OF THE TITLE; PARTIES' POWER TO CHOOSE APPLICABLE LAW.~~)) SEVERABILITY. (((~~(1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this Title applies to transactions bearing an appropriate relation to this state.~~

~~(2) Where one of the following provisions of this Title specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:~~

~~Rights of creditors against sold goods. RCW 62A.2-402.~~

~~Applicability of the Article on Leases. RCW 62A.2A-105 and 62A.2A-106.~~

~~Applicability of the Article on Bank Deposits and Collections. RCW 62A.4-102.~~

~~Governing law in the Article on Funds Transfers. RCW 62A.4A-507.~~

~~Letters of Credit. RCW 62A.5-116.~~

~~Applicability of the Article on Investment Securities. RCW 62A.8-110.~~

~~Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens. RCW 62A.9A-301 through~~

~~62A.9A-307.~~)) If any provision or clause of this title or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this title which can be given effect without the invalid provision or application, and to this end the provisions of this title are severable.

Sec. 106. RCW 62A.1-106 and 1965 ex.s. c 157 s 1-106 are each amended to read as follows:

((~~REMEDIES TO BE LIBERALLY ADMINISTERED.~~)) USE OF SINGULAR AND PLURAL; GENDER. (((~~(1) The remedies provided by this Title shall be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special nor penal damages may be had except as specifically provided in this Title or by other rule of law.~~

~~(2) Any right or obligation declared by this Title is enforceable by action unless the provision declaring it specifies a different and limited effect.~~)) In this title, unless the statutory context otherwise requires:

(1) Words in the singular number include the plural, and those in the plural include the singular; and

(2) Words of any gender also refer to any other gender.

Sec. 107. RCW 62A.1-107 and 1965 ex.s. c 157 s 1-107. Cf. former RCW sections: (i) RCW 62.01.119(3) are each amended to read as follows:

((~~WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER BREACH.~~)) SECTION CAPTIONS. ((~~Any claim or right arising out of an alleged breach can be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party.~~)) Section captions are part of this title.

Sec. 108. RCW 62A.1-108 and 1965 ex.s. c 157 s 1-108 are each amended to read as follows:

((~~SEVERABILITY.~~)) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. ((~~If any provision or clause of this Title or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Title which can be given effect without the invalid provision or application, and to this end the provisions of this Title are declared to be severable.~~)) Except as provided in this section, this Article modifies, limits, and supersedes the federal electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., except that nothing in this Article modifies, limits, or supersedes section 7001(c) of that act, and nothing in this section either authorizes or prohibits electronic delivery of any of the notices described in section 7003(b) of that act. This section does not modify, limit, or supersede application of the federal electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., to transactions governed by Article 2 or 2A of this title.

Sec. 109. RCW 62A.1-201 and 2001 c 32 s 9 are each amended to read as follows:

GENERAL DEFINITIONS. (a) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other articles of this title that apply to particular articles or parts thereof, have the meanings stated.

(b) Subject to ((~~additional~~)) definitions contained in ((~~the subsequent~~)) other articles of this title ((~~which are applicable to specific~~)) that apply to particular articles or parts thereof((~~, and unless the context otherwise requires, in this Title~~)):

(1) "Action," in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in equity, and any other proceeding((~~s~~)) in which rights are determined.

(2) "Aggrieved party" means a party entitled to ((~~resort to~~)) pursue a remedy.

(3) "Agreement," as distinguished from "contract," means the bargain of the parties in fact, as found in their language or ((~~by implication~~)) inferred from other circumstances, including course of performance, course of dealing, or usage of trade ((~~or course of performance~~)) as provided in ((~~this Title (RCW 62A.1-205, RCW 62A.2-208, and RCW 62A.2A-207). Whether an agreement has legal consequences is determined by the provisions of this Title, if applicable; otherwise by the law of contracts (RCW 62A.1-103)~~)) RCW 62A.1-303. (((~~Compare "Contract".~~)))

(4) "Bank" means ((~~any~~)) a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company.

(5) "Bearer" means ((~~the~~)) a person in control of a negotiable electronic document of title or a person in possession of ((~~an~~)) a negotiable instrument, negotiable tangible document of title, or certificated security that is payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods((~~, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill~~)). The term does not include a warehouse receipt.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the trier((~~s~~)) of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a ((~~pre-existing~~)) preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article ((~~62A.2 RCW~~)) 2 of this title may be a buyer in ordinary course of business. "Buyer in ordinary course of business" does not include a person that acquires goods in a transfer in bulk or as security for or in

total or partial satisfaction of a money debt ((~~is not a buyer in ordinary course of business~~)).

(10) "Conspicuous," ((~~:~~)) with reference to a term ((~~or clause is conspicuous when it is~~)), means so written, displayed, or presented that a reasonable person against ((~~whom~~)) which it is to operate ought to have noticed it. ((~~A printed heading in capitals (as: NON-NEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous".~~)) Whether a term ((~~or clause~~)) is "conspicuous" or not is ((~~for~~)) a decision ((~~by~~)) for the court. Conspicuous terms include the following:

(A) A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(B) Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

(11) "Consumer" means an individual who enters into a transaction primarily for personal, family, or household purposes.

(12) "Contract," as distinguished from "agreement," means the total legal obligation ((~~which~~)) that results from the parties' agreement as ((~~affected~~)) determined by this title ((~~and~~)) as supplemented by any other applicable ((~~rules of~~)) laws. (((~~Compare "Agreement".~~)

((~~(12)~~)) (13) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

(((~~(13)~~))) (14) "Defendant" includes a person in the position of defendant in a ((~~cross-action or~~)) counterclaim, cross-claim, or third-party claim.

(((~~(14)~~))) (15) "Delivery," with respect to an electronic document of title means voluntary transfer of control and with respect to an instrument((~~s~~)), a tangible document((~~s~~)) of title, or chattel paper, ((~~or certificated securities~~)) means voluntary transfer of possession.

(((~~(15)~~))) (16) "Document of title" ((~~includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which~~)) means a record (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of ((~~it~~)) the record is entitled to receive, control, hold, and dispose of the ((~~document~~)) record and the goods ((~~it~~)) the record covers((~~. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass~~)) and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document

of title evidenced by a record consisting of information that is inscribed on a tangible medium.

((~~(16)~~)) (17) "Fault" means a default, breach, or wrongful act((~~,~~)) or omission ((~~or breach~~)).

((~~(17)~~)) (18) "Fungible goods" ((~~with respect to goods or securities~~)) means:

(A) Goods ((~~or securities~~)) of which any unit ((~~is~~)), by nature or usage of trade, is the equivalent of any other like unit((~~.~~)); or

(B) Goods ((~~which are not fungible shall be deemed fungible for the purposes of this Title to the extent~~)) that ((~~under a particular~~)) by agreement ((~~or document unlike units~~)) are treated as equivalent((~~s~~)).

((~~(18)~~)) (19) "Genuine" means free of forgery or counterfeiting.

((~~(19)~~)) (20) "Good faith," except as otherwise provided in Article 5 of this title, means honesty in fact ((~~in the conduct or transaction concerned~~)) and the observance of reasonable commercial standards of fair dealing.

((~~(20)~~)) (21) "Holder" with respect to a negotiable instrument, means:

(A) The person in possession ((~~if the~~)) of a negotiable instrument that is payable either to bearer or((~~, in the case of an instrument payable to an identified person, if the~~)) to an identified person that is the person in possession((~~. "Holder" with respect to~~));

(B) The person in possession of a negotiable tangible document of title ((~~means the person in possession~~)) if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) The person in control of a negotiable electronic document of title.

((~~(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.~~))

(22) "Insolvency proceeding((~~s~~))" includes ((~~any~~)) an assignment for the benefit of creditors or other proceeding((~~s~~)) intended to liquidate or rehabilitate the estate of the person involved.

(23) ((~~A person is~~)) "Insolvent" ((~~who either has~~)) means:

(A) Having generally ceased to pay ((~~his or her~~)) debts in the ordinary course of business ((~~or cannot~~)) other than as a result of bona fide dispute;

(B) Being unable to pay ((~~his or her~~)) debts as they become due; or ((~~is~~))

(C) Being insolvent within the meaning of ((~~the~~)) federal bankruptcy law.

(24) "Money" means a medium of exchange currently authorized or adopted by a domestic or foreign government ((~~and~~)). The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more ((~~nations~~)) countries.

(25) ((~~A person has "notice" of a fact when~~

~~(a) he or she has actual knowledge of it; or~~

~~(b) he or she has received a notice or notification of it; or~~

~~(c) from all the facts and circumstances known to him or her at the time in question he or she has reason to know that it exists.~~

~~A person "knows" or has "knowledge" of a fact when he or she has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this Title.~~

~~(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary~~

~~course whether or not such other actually comes to know of it. A person "receives" a notice or notification when~~

~~(a) it comes to his or her attention; or~~

~~(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by him or her as the place for receipt of such communications.~~

~~(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his or her attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his or her regular duties or unless he or she has reason to know of the transaction and that the transaction would be materially affected by the information.~~

~~(28)~~)) "Organization" ((~~includes a 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~~)) means a person other than an individual.

(((~~(29)~~))) (26) "Party," ((~~,~~)) as ((~~distinct~~)) distinguished from "third party," ((~~,~~)) means a person ((~~who~~)) that has engaged in a transaction or made an agreement ((~~within~~)) subject to this title.

(((~~(30)~~))) (27) "Person" ((~~includes~~)) means an individual ((~~or an organization (See RCW 62A.1-102).~~

~~(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.~~

~~(32)~~)), corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(28) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

(29) "Purchase" ((~~includes~~)) means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or ((~~re-issue~~)) reissue, gift, or any other voluntary transaction creating an interest in property.

(((~~(33)~~))) (30) "Purchaser" means a person ((~~who~~)) that takes by purchase.

(((~~(34)~~))) (31) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(32) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(((~~(35)~~))) (33) "Representative" ((~~includes~~)) means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate((~~, or any other person empowered to act for another~~)).

(((~~(36)~~))) (34) "Right((~~s~~))" includes ((~~remedies~~)) remedy.

(((~~(37)~~))) (35) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation((~~, except for lease purchase agreements under chapter 63.19 RCW. The term also~~)). "Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9A of this title. "Security interest" does not include the special property interest of a buyer of goods on identification of ((~~such~~)) those goods to a contract for sale under RCW 62A.2-401 ((~~is not a "security interest"~~)), but a buyer may also acquire a "security interest" by complying with Article 9A of this title. Except as otherwise provided in RCW 62A.2-505, the right of a seller or lessor of goods under Article 2 or 2A of this title to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with Article 9A of this title. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (((~~(~~))) under RCW 62A.2-401((~~)~~)) is limited in effect to a reservation of a "security interest." Whether a transaction in the form of a lease creates a ((~~lease or~~)) "security interest" is determined ((~~by the facts of each case. However, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and:~~

~~(a) The original term of the lease is equal to or greater than the remaining economic life of the goods;~~

~~(b) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;~~

~~(c) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or~~

~~(d) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.~~

~~A transaction does not create a security interest merely because it provides that:~~

~~(a) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;~~

~~(b) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods;~~

~~(c) The lessee has an option to renew the lease or to become the owner of the goods;~~

~~(d) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed;~~

~~(c) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed; or~~

~~(f) The amount of rental payments may or will be increased or decreased by reference to the amount realized by the lessor upon sale or disposition of the goods.~~

~~For purposes of this subsection (37):~~

~~(a) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;~~

~~(b) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and~~

~~(c) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into~~)) pursuant to RCW 62A.1-203.

(((~~(38)~~))) (36) "Send" in connection with ((~~any~~)) a writing, record, or notice means:

(A) To deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances((~~. The receipt of any writing~~)); or

(B) In any other way to cause to be received any record or notice within the time ((~~at which~~)) it would have arrived if properly sent ((~~has the effect of a proper sending~~)).

(((~~(39)~~))) (37) "Signed" includes using any symbol executed or adopted ((~~by a party~~)) with present intention to ((~~authenticate~~)) adopt or accept a writing.

(((~~(40)~~))) (38) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(39) "Surety" includes a guarantor or other secondary obligor.

(((~~(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.~~

~~(42)~~)) (40) "Term" means ((~~that~~)) a portion of an agreement ((~~which~~)) that relates to a particular matter.

(((~~(43)~~))) (41) "Unauthorized((~~"~~)) signature" means ((~~one~~)) a signature made without actual, implied, or apparent authority ((~~and~~)). The term includes a forgery.

(((~~(44) "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (RCW 62A.3-303, RCW 62A.4-210, and RCW 62A.4-211) a person gives "value" for rights if he or she acquires them~~

~~(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or~~

~~(b) as security for or in total or partial satisfaction of a preexisting claim; or~~

~~(c) by accepting delivery pursuant to a pre-existing contract for purchase; or~~

~~(d) generally, in return for any consideration sufficient to support a simple contract.~~

~~(45)~~)) (42) "Warehouse receipt" means a ((~~receipt~~)) document of title issued by a person engaged in the business of storing goods for hire.

(((~~(46) "Written" or~~)) (43) "Writing" includes printing, typewriting, or any other intentional reduction to tangible form. "Written" has a corresponding meaning.

Sec. 110. RCW 62A.1-202 and 1965 ex.s. c 157 s 1-202 are each amended to read as follows:

((~~PRIMA FACIE EVIDENCE BY THIRD PARTY DOCUMENTS.~~)) NOTICE; KNOWLEDGE. ((~~A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party shall be prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party.~~)) (a) Subject to subsection (f) of this section, a person has "notice" of a fact if the person:

(1) Has actual knowledge of it;

(2) Has received a notice or notification of it; or

(3) From all the facts and circumstances known to the person at the time in question, has reason to know that it exists.

(b) "Knowledge" means actual knowledge. "Knows" has a corresponding meaning.

(c) "Discover," "learn," or words of similar import refer to knowledge rather than to reason to know.

(d) A person "notifies" or "gives" a notice or notification to another person by taking such steps as may be reasonably required to inform the other person in ordinary course, whether or not the other person actually comes to know of it.

(e) Subject to subsection (f) of this section, a person "receives" a notice or notification when:

(1) It comes to that person's attention; or

(2) It is duly delivered in a form reasonable under the circumstances at the place of business through which the contract was made or at another location held out by that person as the place for receipt of such communications.

(f) Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable

compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

Sec. 111. RCW 62A.1-203 and 1965 ex.s. c 157 s 1-203 are each amended to read as follows:

((~~OBLIGATION OF GOOD FAITH.~~)) LEASE DISTINGUISHED FROM SECURITY INTEREST. ((~~Every contract or duty within this Title imposes an obligation of good faith in its performance or enforcement.~~)) (a) Whether a transaction in the form of a lease creates a lease or security interest is determined by the facts of each case.

(b) A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee, and:

(1) The original term of the lease is equal to or greater than the remaining economic life of the goods;

(2) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(3) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement; or

(4) The lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement.

(c) A transaction in the form of a lease does not create a security interest merely because:

(1) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(2) The lessee assumes risk of loss of the goods;

(3) The lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording, or registration fees, or service or maintenance costs;

(4) The lessee has an option to renew the lease or to become the owner of the goods;

(5) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(6) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(d) Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Additional consideration is not nominal if:

(1) When the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(2) When the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed.

(e) The "remaining economic life of the goods" and "reasonably predictable" fair market rent, fair market value, or cost of performing under the lease agreement must be determined with reference to the facts and circumstances at the time the transaction is entered into.

Sec. 112. RCW 62A.1-204 and 1965 ex.s. c 157 s 1-204 are each amended to read as follows:

((~~TIME; REASONABLE TIME; "SEASONABLY".~~)) VALUE. (((~~(1) Whenever this Title requires any action to be taken within a reasonable time, any time which is not manifestly unreasonable may be fixed by agreement.~~

~~(2) What is a reasonable time for taking any action depends on the nature, purpose and circumstances of such action.~~

~~(3) An action is taken "seasonably" when it is taken at or within the time agreed or if no time is agreed at or within a reasonable time.~~)) Except as otherwise provided in Articles 3, 4, and 5 of this title, a person gives value for rights if the person acquires them:

(1) In return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection;

(2) As security for, or in total or partial satisfaction of, a preexisting claim;

(3) By accepting delivery under a preexisting contract for purchase; or

(4) In return for any consideration sufficient to support a simple contract.

Sec. 113. RCW 62A.1-205 and 1965 ex.s. c 157 s 1-205 are each amended to read as follows:

((~~COURSE OF DEALING AND USAGE OF TRADE.~~)) REASONABLE TIME; SEASONABLENESS. (((~~(1) A course of dealing is a sequence of previous conduct between the parties to a particular transaction which is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.~~

~~(2) A usage of trade is any practice or method of dealing having such regularity of observance in a place, vocation or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage are to be proved as facts. If it is established that such a usage is embodied in a written trade code or similar writing the interpretation of the writing is for the court.~~

~~(3) A course of dealing between parties and any usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware give particular meaning to and supplement or qualify terms of an agreement.~~

~~(4) The express terms of an agreement and an applicable course of dealing or usage of trade shall be construed wherever reasonable as consistent with each other; but when such construction is unreasonable express terms control both course of dealing and usage of trade and course of dealing controls usage of trade.~~

~~(5) An applicable usage of trade in the place where any part of performance is to occur shall be used in interpreting the agreement as to that part of the performance.~~

~~(6) Evidence of a relevant usage of trade offered by one party is not admissible unless and until he has given the other party such notice as the court finds sufficient to prevent unfair surprise to the latter.~~)) (a) Whether a time for taking an action required by this title is reasonable depends on the nature, purpose, and circumstances of the action.

(b) An action is taken seasonably if it is taken at or within the time agreed or, if no time is agreed, at or within a reasonable time.

Sec. 114. RCW 62A.1-206 and 1995 c 48 s 55 are each amended to read as follows:

((~~STATUTE OF FRAUDS FOR KINDS OF PERSONAL PROPERTY NOT OTHERWISE COVERED.~~)) PRESUMPTIONS. (((~~(1) Except in the cases described in subsection (2) of this section a contract for the sale of personal property is not enforceable by way of action or defense beyond five thousand dollars in amount or value of remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter, and is signed by the party against whom enforcement is sought or by his authorized agent.~~

~~(2) Subsection (1) of this section does not apply to contracts for the sale of goods (RCW 62A.2-201) nor of securities (RCW 62A.8-113) nor to security agreements (RCW 62A.9-203).~~)) Whenever this title creates a "presumption" with respect to a fact, or provides that a fact is "presumed," the trier of fact must find the existence of the fact unless and until evidence is introduced that supports a finding of its nonexistence.

NEW SECTION. **Sec. 115.** A new section is added to chapter 62A.1 RCW, to be codified as RCW 62A.1-301, to read as follows:

TERRITORIAL APPLICABILITY; PARTIES' POWER TO CHOOSE APPLICABLE LAW. (a) Except as otherwise provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties.

(b) In the absence of an agreement effective under subsection (a) of this section, and except as provided in subsection (c) of this section, this title applies to transactions bearing an appropriate relation to this state.

(c) If one of the following provisions of this title specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:

(1) RCW 62A.2-402;

(2) RCW 62A.2A-105 and 62A.2A-106;

(3) RCW 62A.4-102;

(4) RCW 62A.4A-507;

(5) RCW 62A.5-116;

(6) RCW 62A.8-110;

(7) RCW 62A.9A-301 through 62A.9A-307.

NEW SECTION. **Sec. 116.** A new section is added to chapter 62A.1 RCW, to be codified as RCW 62A.1-302, to read as follows:

VARIATION BY AGREEMENT. (a) Except as otherwise provided in subsection (b) of this section or elsewhere in this title, the effect of provisions of this title may be varied by agreement.

(b) The obligations of good faith, diligence, reasonableness, and care prescribed by this title may not be disclaimed by agreement. The parties, by agreement, may determine the standards by which the performance of those obligations is to be measured if those standards are not manifestly unreasonable. Whenever this title requires an action to be taken within a reasonable time, a time that is not manifestly unreasonable may be fixed by agreement.

(c) The presence in certain provisions of this title of the phrase "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement under this section.

NEW SECTION. **Sec. 117.** A new section is added to chapter 62A.1 RCW, to be codified as RCW 62A.1-303, to read as follows:

COURSE OF PERFORMANCE, COURSE OF DEALING, AND USAGE OF TRADE. (a) A "course of performance" is a sequence of conduct between the parties to a particular transaction that exists if:

(1) The agreement of the parties with respect to the transaction involves repeated occasions for performance by a party; and

(2) The other party, with knowledge of the nature of the performance and opportunity for objection to it, accepts the performance or acquiesces in it without objection.

(b) A "course of dealing" is a sequence of conduct concerning previous transactions between the parties to a particular transaction that is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(c) A "usage of trade" is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage must be proved as facts. If it is established that such a usage is embodied in a trade code or similar record, the interpretation of the record is a question of law.

(d) A course of performance or course of dealing between the parties or usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware is relevant in ascertaining the meaning of the parties' agreement, may give particular meaning to specific terms of the agreement, and may supplement or qualify the terms of the agreement. A usage of trade applicable in the place in which part of the performance under the agreement is to occur may be so utilized as to that part of the performance.

(e) Except as otherwise provided in subsection (f) of this section, the express terms of an agreement and any applicable course of performance, course of dealing, or usage of trade must be construed whenever reasonable as consistent with each other. If such a construction is unreasonable:

(1) Express terms prevail over course of performance, course of dealing, and usage of trade;

(2) Course of performance prevails over course of dealing and usage of trade; and

(3) Course of dealing prevails over usage of trade.

(f) Subject to RCW 62A.2-209 and 62A.2A-208, a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

(g) Evidence of a relevant usage of trade offered by one party is not admissible unless that party has given the other party notice that the court finds sufficient to prevent unfair surprise to the other party.

NEW SECTION. **Sec. 118.** A new section is added to chapter 62A.1 RCW, to be codified as RCW 62A.1-304, to read as follows:

OBLIGATION OF GOOD FAITH. Every contract or duty within this title imposes an obligation of good faith in its performance and enforcement.

NEW SECTION. **Sec. 119.** A new section is added to chapter 62A.1 RCW, to be codified as RCW 62A.1-305, to read as follows:

REMEDIES TO BE LIBERALLY ADMINISTERED. (a) The remedies provided by this title must be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special damages nor penal damages may be had except as specifically provided in this title or by other rule of law.

(b) Any right or obligation declared by this title is enforceable by action unless the provision declaring it specifies a different and limited effect.

NEW SECTION. **Sec. 120.** A new section is added to chapter 62A.1 RCW, to be codified as RCW 62A.1-306, to read as follows:

WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER BREACH. A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in an authenticated record.

NEW SECTION. **Sec. 121.** A new section is added to chapter 62A.1 RCW, to be codified as RCW 62A.1-307, to read as follows:

PRIMA FACIE EVIDENCE BY THIRD-PARTY DOCUMENTS. A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party is prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party.

NEW SECTION. **Sec. 122.** A new section is added to chapter 62A.1 RCW, to be codified as RCW 62A.1-308, to read as follows:

PERFORMANCE OR ACCEPTANCE UNDER RESERVATION OF RIGHTS. (a) A party that with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice," "under protest," or the like are sufficient.

(b) Subsection (a) of this section does not apply to an accord and satisfaction.

NEW SECTION. **Sec. 123.** A new section is added to chapter 62A.1 RCW, to be codified as RCW 62A.1-309, to read as follows:

OPTION TO ACCELERATE AT WILL. A term providing that one party or that party's successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or when the party "deems itself

insecure," or words of similar import, means that the party has power to do so only if that party in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against which the power has been exercised.

NEW SECTION. **Sec. 124.** A new section is added to chapter 62A.1 RCW, to be codified as RCW 62A.1-310, to read as follows:

SUBORDINATED OBLIGATIONS. An obligation may be issued as subordinated to performance of another obligation of the person obligated, or a creditor may subordinate its right to performance of an obligation by agreement with either the person obligated or another creditor of the person obligated. Subordination does not create a security interest as against either the common debtor or a subordinated creditor.

PART II
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 7
GENERAL

Sec. 201. RCW 62A.7-101 and 1965 ex.s. c 157 s 7-101 are each amended to read as follows:

SHORT TITLE. This Article ((~~shall be known and~~)) may be cited as Uniform Commercial Code—Documents of Title.

Sec. 202. RCW 62A.7-102 and 2011 c 336 s 825 are each amended to read as follows:

DEFINITIONS AND INDEX OF DEFINITIONS. (((~~(1)~~))) (a) In this Article, unless the context otherwise requires:

(((~~(a)~~))) (1) "Bailee" means ((~~the~~)) a person ((~~who~~)) that by a warehouse receipt, bill of lading, or other document of title acknowledges possession of goods and contracts to deliver them.

(((~~(b)~~))) (2) "Carrier" means a person that issues a bill of lading.

(3) "Consignee" means ((~~the~~)) a person named in a bill of lading to ((~~whom~~)) which or to whose order the bill promises delivery.

(((~~(c)~~))) (4) "Consignor" means ((~~the~~)) a person named in a bill of lading as the person from ((~~whom~~)) which the goods have been received for shipment.

(((~~(d)~~))) (5) "Delivery order" means a ((~~written~~)) record that contains an order to deliver goods directed to a warehouse ((~~operator~~)), carrier, or other person ((~~who~~)) that in the ordinary course of business issues warehouse receipts or bills of lading.

~~((e) "Document" means document of title as defined in the general definitions in Article 1 (RCW 62A.1-201).~~

~~(f)~~)) (6) [Reserved.]

(7) "Goods" means all things ((~~which~~)) that are treated as movable for the purposes of a contract ((~~of~~)) for storage or transportation.

(((~~(g)~~))) (8) "Issuer" means a bailee ((~~who~~)) that issues a document ((~~except that~~)) of title or, in ((~~relation to~~)) the case of an unaccepted delivery order ((~~it means~~)), the person ((~~who~~)) that orders the possessor of goods to deliver. ((~~Issuer~~)) The term includes ((~~any~~)) a person for ((~~whom~~)) which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, ((~~notwithstanding that~~)) even if the issuer ((~~received no~~)) did not receive any goods ((~~or that~~)), the goods were

misdescribed, or ((that)) in any other respect the agent or employee violated ((his or her)) the issuer's instructions.

(((h))) (9) "Person entitled under the document" means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

(10) [Reserved.]

(11) "Sign" means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic sound, symbol, or process.

(12) "Shipper" means a person that enters into a contract of transportation with a carrier.

(13) "Warehouse ((operator))" ((is)) means a person engaged in the business of storing goods for hire.

((~~(2) Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:~~

~~"Duly negotiate." RCW 62A.7-501.~~

~~"Person entitled under the document." RCW 62A.7-403(4).~~

~~(3)~~)) (b) Definitions in other articles applying to this Article and the sections in which they appear are:

(1) "Contract for sale((.))", RCW 62A.2-106((~~. "Overseas." RCW 62A.2-323.~~));

(2) "Lessee in ordinary course of business," RCW 62A.2A-103; and

(3) "Receipt" of goods((,)), RCW 62A.2-103.

(((~~(4)~~))) (c) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 203. RCW 62A.7-103 and 1965 ex.s. c 157 s 7-103 are each amended to read as follows:

RELATION OF ARTICLE TO TREATY((,)) OR STATUTE((~~, TARIFF, CLASSIFICATION OR REGULATION~~)). ((~~To the extent that~~)) (a) This Article is subject to any treaty or statute of the United States((,)) or regulatory statute of this state ((~~or tariff, classification or regulation filed or issued pursuant thereto~~)) to the extent the treaty, statute, or regulatory statute is applicable((~~, the provisions of this Article are subject thereto~~)).

(b) This Article does not modify or repeal any law prescribing the form or content of a document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a bailee's business in respects not specifically treated in this Article. However, violation of such a law does not affect the status of a document of title that otherwise is within the definition of a document of title.

(c) This act modifies, limits, and supersedes the federal electronic signatures in global and national commerce act (15 U.S.C. Sec. 7001, et seq.) but does not modify, limit, or supersede section 101(c) of that act (15 U.S.C. Sec. 7001(c)) or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. Sec. 7003(b)).

(d) A person in its capacity as an electronic data storage provider or an electronic data transmitter is not subject to this Article.

Sec. 204. RCW 62A.7-104 and 1965 ex.s. c 157 s 7-104 are each amended to read as follows:

NEGOTIABLE AND NONNEGOTIABLE ((~~WAREHOUSE RECEIPT, BILL OF LADING OR OTHER~~)) DOCUMENT OF TITLE. (((~~(1) A warehouse receipt, bill of lading or other document of title is negotiable~~))

(a) Except as otherwise provided in subsection (c) of this section, a document of title is negotiable if by its terms the goods are to be delivered to bearer or to the order of a named person((~~; or~~

~~(b) where recognized in overseas trade, if it runs to a named person or assigns.~~

~~(2) Any other document~~)).

(b) A document of title other than one described in subsection (a) of this section is nonnegotiable. A bill of lading ((~~in which it is stated~~)) that states that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against ((~~a written~~)) an order in a record signed by the same or another named person.

(c) A document of title is nonnegotiable if, at the time it is issued, the document has a conspicuous legend, however expressed, that it is nonnegotiable.

Sec. 205. RCW 62A.7-105 and 1965 ex.s. c 157 s 7-105 are each amended to read as follows:

((~~CONSTRUCTION AGAINST NEGATIVE IMPLICATION.~~)) REISSUANCE IN ALTERNATIVE MEDIUM. ((~~The omission from either Part 2 or Part 3 of this Article of a provision corresponding to a provision made in the other Part does not imply that a corresponding rule of law is not applicable.~~)) (a) Upon request of a person entitled under an electronic document of title, the issuer of the electronic document may issue a tangible document of title as a substitute for the electronic document if:

(1) The person entitled under the electronic document surrenders control of the document to the issuer; and

(2) The tangible document when issued contains a statement that it is issued in substitution for the electronic document.

(b) Upon issuance of a tangible document of title in substitution for an electronic document of title in accordance with subsection (a) of this section:

(1) The electronic document ceases to have any effect or validity; and

(2) The person that procured issuance of the tangible document warrants to all subsequent persons entitled under the tangible document that the warrantor was a person entitled under the electronic document when the warrantor surrendered control of the electronic document to the issuer.

(c) Upon request of a person entitled under a tangible document of title, the issuer of the tangible document may issue an electronic document of title as a substitute for the tangible document if:

(1) The person entitled under the tangible document surrenders possession of the document to the issuer; and

(2) The electronic document when issued contains a statement that it is issued in substitution for the tangible document.

(d) Upon issuance of an electronic document of title in substitution for a tangible document of title in accordance with subsection (c) of this section:

(1) The tangible document ceases to have any effect or validity; and

(2) The person that procured issuance of the electronic document warrants to all subsequent persons entitled under the electronic document that the warrantor was a person entitled under the tangible document when the warrantor surrendered possession of the tangible document to the issuer.

NEW SECTION. **Sec. 206.** A new section is added to chapter 62A.7 RCW, to be codified as RCW 62A.7-106, to read as follows:

CONTROL OF ELECTRONIC DOCUMENT OF TITLE. (a) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(b) A system satisfies subsection (a) of this section, and a person is deemed to have control of an electronic document of title, if the document is created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in (4), (5), and (6) of this subsection, unalterable;

(2) The authoritative copy identifies the person asserting control as:

(A) The person to which the document was issued; or

(B) If the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(3) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

PART III
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 7 WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

Sec. 301. RCW 62A.7-201 and 2011 c 336 s 826 are each amended to read as follows:

((~~WHO~~)) PERSON THAT MAY ISSUE A WAREHOUSE RECEIPT; STORAGE UNDER ((~~GOVERNMENT~~)) BOND. (((~~(1)~~))) (a) A warehouse receipt may be issued by any warehouse ((~~operator~~)).

(((~~(2) Where~~)) (b) If goods, including distilled spirits and agricultural commodities, are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods ((~~has like effect as~~)) is deemed to be a warehouse receipt even ((~~though~~)) if issued by a person ((~~who~~)) that is the owner of the goods and is not a warehouse ((~~operator~~)).

Sec. 302. RCW 62A.7-202 and 2011 c 336 s 827 are each amended to read as follows:

FORM OF WAREHOUSE RECEIPT; ((~~ESSENTIAL TERMS; OPTIONAL TERMS~~)) EFFECT OF OMISSION. (((~~(1)~~))) (a) A warehouse receipt need not be in any particular form.

(((~~(2)~~))) (b) Unless a warehouse receipt ((~~embodies within its written, printed, or electronic terms~~)) provides for each of the following, the warehouse ((~~operator~~)) is liable for damages caused ((~~by the omission~~)) to a person injured ((~~thereby~~)) by its omission:

(((~~(a)~~))) (1) A statement of the location of the warehouse facility where the goods are stored;

(((~~(b)~~))) (2) The date of issue of the receipt;

(((~~(c)~~))) (3) The ((~~consecutive number~~)) unique identification code of the receipt;

(((~~(d)~~))) (4) A statement whether the goods received will be delivered to the bearer, to a ((~~specified~~)) named person, or to a ((~~specified~~)) named person or ((~~his or her~~)) its order;

(((~~(e)~~))) (5) The rate of storage and handling charges, ((~~except that where~~)) unless goods are stored under a field warehousing arrangement, in which case a statement of that fact is sufficient on a nonnegotiable receipt;

(((~~(f)~~))) (6) A description of the goods or ((~~of~~)) the packages containing them;

(((~~(g)~~))) (7) The signature of the warehouse ((~~operator, which may be made by his or her authorized~~)) or its agent;

(((~~(h)~~))) (8) If the receipt is issued for goods ((~~of which the warehouse operator is owner~~)) that the warehouse owns, either solely ((~~or~~)), jointly, or in common with others, a statement of the fact of ((~~such~~)) that ownership; and

(((~~(i)~~))) (9) A statement of the amount of advances made and of liabilities incurred for which the warehouse ((~~operator~~)) claims a lien or security interest (((~~(RCW 62A.7-209). If~~)), unless the precise amount of ((~~such~~)) advances made or ((~~of such~~)) liabilities incurred ((~~is~~)), at the time of the issue of the receipt, is unknown to the warehouse ((~~operator~~)) or to ((~~his or her~~)) its agent ((~~who issues it,~~)) that issued the receipt, in which case a statement of the fact that advances have been made or liabilities incurred and the purpose ((~~thereof~~)) of the advances or liabilities is sufficient.

(((~~(3)~~))) (c) A warehouse ((~~operator~~)) may insert in ((~~his or her~~)) its receipt any ((~~other~~)) terms ((~~which~~)) that are not contrary to the provisions of this title and do not impair ((~~his or her~~)) its obligation of delivery (((~~(~~))) under RCW 62A.7-403((~~) or his or her~~)) or its duty of care (((~~(~~))) under RCW 62A.7-204((~~)~~)). Any contrary provision((~~s shall be~~)) is ineffective.

Sec. 303. RCW 62A.7-203 and 1965 ex.s. c 157 s 7-203 are each amended to read as follows:

LIABILITY FOR NONRECEIPT OR MISDESCRIPTION. A party to or purchaser for value in good faith of a document of title, other than a bill of lading ((~~relying in either case~~)), that relies upon the description ((~~therein~~)) of the goods in the document may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

(1) The document conspicuously indicates that the issuer does not know whether ((~~any~~)) all or part ((~~or all~~)) of the goods in fact were received or conform to the description, such as ((~~where~~)) a case in which the description is in terms of marks or labels or kind, quantity, or condition, or the receipt or description is qualified by "contents, condition, and quality unknown," "said to

contain," or ((~~the like~~)) words of similar import, if ((~~such~~)) the indication ((~~be~~)) is true((~~,~~)); or

(2) The party or purchaser otherwise has notice of the nonreceipt or misdescription.

Sec. 304. RCW 62A.7-204 and 2011 c 336 s 828 are each amended to read as follows:

DUTY OF CARE; CONTRACTUAL LIMITATION OF WAREHOUSE'S ((~~OPERATOR'S~~)) LIABILITY. (((~~(1)~~))) (a) A warehouse ((~~operator~~)) is liable for damages for loss of or injury to the goods caused by ((~~his or her~~)) its failure to exercise ((~~such~~)) care ((~~in~~)) with regard to ((~~them as~~)) the goods that a reasonably careful person would exercise under ((~~like~~)) similar circumstances ((~~but~~)). Unless otherwise agreed ((~~he or she~~)), the warehouse is not liable for damages ((~~which~~)) that could not have been avoided by the exercise of ((~~such~~)) that care.

(((~~(2)~~))) (b) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage((~~, and setting forth a specific liability per article or item, or value per unit of weight,~~)) beyond which the warehouse ((~~operator shall not be~~)) is not liable((~~; provided, however, that such liability may on written~~)). Such a limitation is not effective with respect to the warehouse's liability for conversion to its own use. On request of the bailor in a record at the time of signing ((~~such~~)) the storage agreement or within a reasonable time after receipt of the warehouse receipt, the warehouse's liability may be increased on part or all of the goods ((~~thereunder, in which~~)) covered by the storage agreement or the warehouse receipt. In this event, increased rates may be charged based on ((~~such~~)) an increased valuation((~~, but that no such increase shall be permitted contrary to a lawful limitation of liability contained in the warehouse operator's tariff, if any. No such limitation is effective with respect to the warehouse operator's liability for conversion to his or her own use~~)) of the goods.

(((~~(3)~~))) (c) Reasonable provisions as to the time and manner of presenting claims and ((~~instituting~~)) commencing actions based on the bailment may be included in the warehouse receipt or ((~~tariff~~)) storage agreement.

(((~~(4)~~))) (d) This section does not ((~~impair or repeal the duties of care or liabilities or penalties for breach thereof as provided in~~)) modify or repeal the provisions of chapters 22.09 and 22.32 RCW.

Sec. 305. RCW 62A.7-205 and 2011 c 336 s 829 are each amended to read as follows:

TITLE UNDER WAREHOUSE RECEIPT DEFEATED IN CERTAIN CASES. A buyer in ((~~the~~)) ordinary course of business of fungible goods sold and delivered by a warehouse ((~~operator who~~)) that is also in the business of buying and selling such goods takes the goods free of any claim under a warehouse receipt even ((~~though it~~)) if the receipt is negotiable and has been duly negotiated.

Sec. 306. RCW 62A.7-206 and 2011 c 336 s 830 are each amended to read as follows:

TERMINATION OF STORAGE AT ((~~WAREHOUSE OPERATOR'S~~)) WAREHOUSE'S OPTION. (((~~(1)~~))) (a) A warehouse ((~~operator may on notifying~~)), by giving notice to the person on whose account the goods are held

and any other person known to claim an interest in the goods, may require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document((,)) of title or, if ((no)) a period is not fixed, within a stated period not less than thirty days after the ((notification)) warehouse gives notice. If the goods are not removed before the date specified in the ((notification)) notice, the warehouse ((operator)) may sell them ((in accordance with the provisions of the section on enforcement of a warehouse operator's lien ()) pursuant to RCW 62A.7-210(())).

(((2))) (b) If a warehouse ((operator)) in good faith believes that ((the)) goods are about to deteriorate or decline in value to less than the amount of ((his or her)) its lien within the time ((prescribed)) provided in subsection (((1))) (a) of this section ((for notification, advertisement, and sale)) and RCW 62A.7-210, the warehouse ((operator)) may specify in the ((notification)) notice given under subsection (a) of this section any reasonable shorter time for removal of the goods and ((in case)), if the goods are not removed, may sell them at public sale held not less than one week after a single advertisement or posting.

(((3))) (c) If, as a result of a quality or condition of the goods of which the warehouse ((operator had no)) did not have notice at the time of deposit, the goods are a hazard to other property ((or to)), the warehouse facilities, or ((to)) other persons, the warehouse ((operator)) may sell the goods at public or private sale without advertisement or posting on reasonable notification to all persons known to claim an interest in the goods. If the warehouse ((operator)), after a reasonable effort, is unable to sell the goods ((he or she)), it may dispose of them in any lawful manner and ((shall)) does not incur ((no)) liability by reason of ((such)) that disposition.

(((4))) (d) The warehouse ((operator must)) shall deliver the goods to any person entitled to them under this Article upon due demand made at any time ((prior to)) before sale or other disposition under this section.

(((5))) (e) The warehouse ((operator)) may satisfy ((his or her)) its lien from the proceeds of any sale or disposition under this section but ((must)) shall hold the balance for delivery on the demand of any person to ((whom he or she)) which the warehouse would have been bound to deliver the goods.

Sec. 307. RCW 62A.7-207 and 2011 c 336 s 831 are each amended to read as follows:

GOODS MUST BE KEPT SEPARATE; FUNGIBLE GOODS. (((1))) (a) Unless the warehouse receipt provides otherwise ((provides)), a warehouse ((operator must)) shall keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods ((except that)). However, different lots of fungible goods may be commingled.

(((2))) (b) If different lots of fungible goods ((so)) are commingled, the goods are owned in common by the persons entitled thereto and the warehouse ((operator)) is severally liable to each owner for that owner's share. ((Where)) If, because of over-issue, a mass of fungible goods is insufficient to meet all the receipts ((which)) the warehouse ((operator)) has issued against it, the persons entitled include all holders to ((whom)) which overissued receipts have been duly negotiated.

Sec. 308. RCW 62A.7-208 and 1965 ex.s. c 157 s 7-208 are each amended to read as follows:

ALTERED WAREHOUSE RECEIPTS. ((~~Where~~)) If a blank in a negotiable tangible warehouse receipt has been filled in without authority, a good-faith purchaser for value and without notice of the ((~~want~~)) lack of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any tangible or electronic warehouse receipt enforceable against the issuer according to its original tenor.

Sec. 309. RCW 62A.7-209 and 2011 c 336 s 832 are each amended to read as follows:

LIEN OF WAREHOUSE ((~~OPERATOR~~)). (((~~(1)~~))) (a) A warehouse ((~~operator~~)) has a lien against the bailor on the goods covered by a warehouse receipt or storage agreement or on the proceeds thereof in ((~~his or her~~)) its possession for charges for storage or transportation ((~~(~~)), including demurrage and terminal charges((~~)~~)), insurance, labor, or other charges, present or future, in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for ((~~like~~)) similar charges or expenses in relation to other goods whenever deposited and it is stated in the warehouse receipt or storage agreement that a lien is claimed for charges and expenses in relation to other goods, the warehouse ((~~operator~~)) also has a lien against ((~~him or her~~)) the goods covered by the warehouse receipt or storage agreement or on the proceeds thereof in its possession for ((~~such~~)) those charges and expenses, whether or not the other goods have been delivered by the warehouse ((~~operator~~)). ((~~But~~)) However, as against a person to ((~~whom~~)) which a negotiable warehouse receipt is duly negotiated, a ((~~warehouse operator's~~)) warehouse's lien is limited to charges in an amount or at a rate specified ((~~on~~)) in the warehouse receipt or, if no charges are so specified ((~~then~~)), to a reasonable charge for storage of the specific goods covered by the receipt subsequent to the date of the receipt. A ((~~warehouse operator's~~)) warehouse's lien as provided in this chapter takes priority over all other liens and perfected or unperfected security interests.

(((~~(2)~~))) (b) The warehouse ((~~operator~~)) may also reserve a security interest against the bailor for ((~~a~~)) the maximum amount specified on the receipt for charges other than those specified in subsection (((~~(1)~~))) (a) of this section, such as for money advanced and interest. ((~~Such a~~)) The security interest is governed by ((~~the Article on Secured Transactions (Article 9)~~))) Article 9A of this title.

(((~~(3)~~))) (c) A ((~~warehouse operator's~~)) warehouse's lien for charges and expenses under subsection (((~~(1)~~))) (a) of this section or a security interest under subsection (((~~(2)~~))) (b) of this section is also effective against any person ((~~who~~)) that so entrusted the bailor with possession of the goods that a pledge of them by ((~~him or her~~)) the bailor to a good-faith purchaser for value would have been valid ((~~but is not effective against a person as to whom the document confers no right in the goods covered by it under RCW 62A.7-503~~)).

(((~~(4) A warehouse operator loses his or her lien on any goods which he or she voluntarily delivers or which he or she~~)) However, the lien or security interest is not effective against a person that before issuance of a document of title had a legal interest or a perfected security interest in the goods and that did not:

(1) Deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:

(A) Actual or apparent authority to ship, store, or sell;

(B) Power to obtain delivery under RCW 62A.7-403; or

(C) Power of disposition under RCW 62A.2-403, 62A.2A-304(2), 62A.2A-305(2), 62A.9A-320, or 62A.9A-321(c) or other statute or rule of law; or

(2) Acquiesce in the procurement by the bailor or its nominee of any document.

(d) A warehouse's lien on household goods for charges and expenses in relation to the goods under subsection (a) of this section is also effective against all persons if the depositor was the legal possessor of the goods at the time of deposit. In this subsection, "household goods" means furniture, furnishings, or personal effects used by the depositor in a dwelling.

(e) A warehouse loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

Sec. 310. RCW 62A.7-210 and 2011 c 336 s 833 are each amended to read as follows:

ENFORCEMENT OF WAREHOUSE ((~~OPERATOR'S~~)) LIEN. (((~~(1)~~))) (a) Except as otherwise provided in subsection (((~~(2)~~))) (b) of this section, a ((~~warehouse operator's~~)) warehouse's lien may be enforced by public or private sale of the goods, in ((~~bloc~~)) bulk or in ((~~parcels~~)) packages, at any time or place and on any terms ((~~which~~)) that are commercially reasonable, after notifying all persons known to claim an interest in the goods. ((~~Such~~)) The notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a ((~~different~~)) method different from that selected by the warehouse ((~~operator~~)) is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The warehouse sells in a commercially reasonable manner if the warehouse ((~~operator either~~)) sells the goods in the usual manner in any recognized market therefor, ((~~or if he or she~~)) sells at the price current in ((~~such~~)) that market at the time of ((~~his or her~~)) the sale, or ((~~if he or she has~~)) otherwise ((~~sold~~)) sells in conformity with commercially reasonable practices among dealers in the type of goods sold((~~, he or she has sold in a commercially reasonable manner~~)). A sale of more goods than apparently necessary to be offered to ((~~insure~~)) ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(((~~(2)~~))) (b) A warehouse ((~~operator's~~)) may enforce its lien on goods, other than goods stored by a merchant in the course of ((~~his or her~~)) its business ((~~may be enforced~~)), only ((~~as follows~~)) if the following requirements are satisfied:

(((~~(a)~~))) (1) All persons known to claim an interest in the goods must be notified.

(((~~(b) The notification must be delivered in person or sent by registered or certified letter to the last known address of any person to be notified.~~

(~~(c)~~))) (2) The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than ten days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.

(((~~(d)~~))) (3) The sale must conform to the terms of the notification.

(((~~(e)~~))) (4) The sale must be held at the nearest suitable place to that where the goods are held or stored.

((~~(f)~~)) (5) After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account ((~~they~~)) the goods are being held, and the time and place of the sale. The sale must take place at least fifteen days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least ten days before the sale in not ((~~less~~)) fewer than six conspicuous places in the neighborhood of the proposed sale.

((~~(3)~~)) (c) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred ((~~under~~)) in complying with this section. In that event, the goods ((~~must~~)) may not be sold, but must be retained by the warehouse ((~~operator~~)) subject to the terms of the receipt and this Article.

((~~(4) The~~)) (d) A warehouse ((~~operator~~)) may buy at any public sale held pursuant to this section.

((~~(5)~~)) (e) A purchaser in good faith of goods sold to enforce a ((~~warehouse operator's~~)) warehouse's lien takes the goods free of any rights of persons against ((~~whom~~)) which the lien was valid, despite the warehouse's noncompliance ((~~by the warehouse operator~~)) with ((~~the requirements of~~)) this section.

((~~(6) The~~)) (f) A warehouse ((~~operator~~)) may satisfy ((~~his or her~~)) its lien from the proceeds of any sale pursuant to this section but must hold the balance, if any, for delivery on demand to any person to ((~~whom he or she~~)) which the warehouse would have been bound to deliver the goods.

((~~(7)~~)) (g) The rights provided by this section ((~~shall be~~)) are in addition to all other rights allowed by law to a creditor against ((~~his or her~~)) a debtor.

((~~(8) Where~~)) (h) If a lien is on goods stored by a merchant in the course of ((~~his or her~~)) its business, the lien may be enforced in accordance with either subsection ((~~(1) or (2)~~)) (a) or (b) of this section.

((~~(9) The~~)) (i) A warehouse ((~~operator~~)) is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

PART IV
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 7
BILLS OF LADING: SPECIAL PROVISIONS

Sec. 401. RCW 62A.7-301 and 1965 ex.s. c 157 s 7-301 are each amended to read as follows:

LIABILITY FOR NONRECEIPT OR MISDESCRIPTION; "SAID TO CONTAIN"; "SHIPPER'S WEIGHT, LOAD, AND COUNT"; IMPROPER HANDLING. ((~~(1)~~)) (a) A consignee of a nonnegotiable bill ((~~who~~)) of lading which has given value in good faith, or a holder to ((~~whom~~)) which a negotiable bill has been duly negotiated, relying ((~~in either case~~)) upon the description ((~~therein~~)) of the goods((~~,~~)) in the bill or upon the date ((~~therein~~)) shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the ((~~document~~)) bill indicates that the issuer does not know whether any part or all

of the goods in fact were received or conform to the description, such as ((~~where~~)) in a case in which the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown,"((~~,~~)) "said to contain,"((~~,~~)) "shipper's weight, load, and count," or ((~~the like~~)) words of similar import, if ((~~such~~)) that indication ((~~be~~)) is true.

(((~~(2) When~~)) (b) If goods are loaded by ((~~an~~)) the issuer ((~~who is a common carrier,~~)) of a bill of lading:

(1) The issuer ((~~must~~)) shall count the packages of goods if ((~~package freight~~)) shipped in packages and ascertain the kind and quantity if shipped in bulk ((~~freight. In~~)); and

(2) Words such ((~~cases~~)) as "shipper's weight, load, and count," or ((~~other~~)) words of similar import indicating that the description was made by the shipper are ineffective except as to ((~~freight~~)) goods concealed ((~~by~~)) in packages.

(((~~(3) When~~)) (c) If bulk ((~~freight is~~)) goods are loaded by a shipper ((~~who~~)) that makes available to the issuer of a bill of lading adequate facilities for weighing ((~~such freight, an~~)) those goods, the issuer ((~~who is a common carrier must~~)) shall ascertain the kind and quantity within a reasonable time after receiving the ((~~written~~)) shipper's request ((~~of the shipper~~)) in a record to do so. ((~~In such cases~~)) In that case, "shipper's weight" or ((~~other~~)) words of ((~~like purport~~)) similar import are ineffective.

(((~~(4)~~))) (d) The issuer ((~~may~~)) of a bill of lading, by ((~~inserting~~)) including in the bill the words "shipper's weight, load, and count," or ((~~other~~)) words of ((~~like purport~~)) similar import, may indicate that the goods were loaded by the shipper((~~;~~)), and, if ((~~such~~)) that statement ((~~be~~)) is true, the issuer ((~~shall~~)) is not ((~~be~~)) liable for damages caused by the improper loading. ((~~But their~~)) However, omission of such words does not imply liability for ((~~such~~)) damages caused by improper loading.

(((~~(5) The~~)) (e) A shipper ((~~shall be deemed to have guaranteed to the~~)) guarantees to an issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition, and weight, as furnished by ((~~him;~~)) the shipper, and the shipper shall indemnify the issuer against damage caused by inaccuracies in ((~~such~~)) those particulars. ((~~The~~)) This right of ((~~the issuer to such~~)) indemnity ((~~shall in no way~~)) does not limit ((~~his~~)) the issuer's responsibility ((~~and~~)) or liability under the contract of carriage to any person other than the shipper.

Sec. 402. RCW 62A.7-302 and 1965 ex.s. c 157 s 7-302 are each amended to read as follows:

THROUGH BILLS OF LADING AND SIMILAR DOCUMENTS OF TITLE. (((~~(1)~~))) (a) The issuer of a through bill of lading, or other document of title embodying an undertaking to be performed in part by ((~~persons~~)) a person acting as its agent((~~s~~)) or by ((~~connecting carriers~~)) a performing carrier, is liable to ((~~anyone~~)) any person entitled to recover on the bill or other document for any breach by ((~~such other persons or by a connecting~~)) the other person or the performing carrier of its obligation under the bill or other document ((~~but~~)). However, to the extent that the bill or other document covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability

for breach by the other person or the performing carrier may be varied by agreement of the parties.

(((~~(2) Where~~)) (b) If goods covered by a through bill of lading or other document of title embodying an undertaking to be performed in part by ((~~persons~~)) a person other than the issuer are received by ((~~any such~~)) that person, ((~~he~~)) the person is subject, with respect to ((~~his~~)) its own performance while the goods are in ((~~his~~)) its possession, to the obligation of the issuer. ((~~His~~)) The person's obligation is discharged by delivery of the goods to another ((~~such~~)) person pursuant to the bill or other document((~~,~~)) and does not include liability for breach by any other ((~~such~~)) person((~~s~~)) or by the issuer.

(((~~(3)~~))) (c) The issuer of ((~~such~~)) a through bill of lading or other document ((~~shall be~~)) of title described in subsection (a) of this section is entitled to recover from the ((~~connecting~~)) performing carrier, or ((~~such~~)) other person in possession of the goods when the breach of the obligation under the bill or other document occurred((~~,~~)):

(1) The amount it may be required to pay to ((~~anyone~~)) any person entitled to recover on the bill or other document ((~~therefor~~)) for the breach, as may be evidenced by any receipt, judgment, or transcript ((~~thereof, and~~)) of judgment; and

(2) The amount of any expense reasonably incurred by ((~~it~~)) the issuer in defending any action ((~~brought~~)) commenced by ((~~anyone~~)) any person entitled to recover on the bill or other document ((~~therefor~~)) for the breach.

Sec. 403. RCW 62A.7-303 and 1965 ex.s. c 157 s 7-303 are each amended to read as follows:

DIVERSION; RECONSIGNMENT; CHANGE OF INSTRUCTIONS. (((~~(1)~~))) (a) Unless the bill of lading otherwise provides, ((~~the~~)) a carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, without liability for misdelivery, on instructions from:

(((~~(a)~~))) (1) The holder of a negotiable bill; ((~~or~~

~~(b)~~))) (2) The consignor on a nonnegotiable bill ((~~notwithstanding~~)), even if the consignee has given contrary instructions ((~~from the consignee~~)); ((~~or~~

~~(c)~~))) (3) The consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the tangible bill or in control of the electronic bill; or

(((~~(d)~~))) (4) The consignee on a nonnegotiable bill, if ((~~he~~)) the consignee is entitled as against the consignor to dispose of ((~~them~~)) the goods.

(((~~(2)~~))) (b) Unless ((~~such~~)) instructions described in subsection (a) of this section are ((~~noted on~~)) included in a negotiable bill of lading, a person to ((~~whom~~)) which the bill is duly negotiated ((~~can~~)) may hold the bailee according to the original terms.

Sec. 404. RCW 62A.7-304 and 1965 ex.s. c 157 s 7-304 are each amended to read as follows:

TANGIBLE BILLS OF LADING IN A SET. (((~~(1)~~))) (a) Except ((~~where~~)) as customary in ((~~overseas~~)) international transportation, a tangible bill of lading ((~~must~~)) may not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

((~~(2) Where~~)) (b) If a tangible bill of lading is lawfully ((~~drawn~~)) issued in a set of parts, each of which ((~~is numbered~~)) contains an identification code and is expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitutes one bill.

((~~(3) Where~~)) (c) If a tangible negotiable bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to ((~~whom~~)) which the first due negotiation is made prevails as to both the document of title and the goods even ((~~though~~)) if any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by ((~~surrender of his~~)) surrendering its part.

((~~(4) Any~~)) (d) A person ((~~who~~)) that negotiates or transfers a single part of a tangible bill of lading ((~~drawn~~)) issued in a set is liable to holders of that part as if it were the whole set.

((~~(5)~~)) (e) The bailee ((~~is obliged to~~)) shall deliver in accordance with ((~~Part 4 of this Article~~)) RCW 62A.7-401 through 62A.7-404 against the first presented part of a tangible bill of lading lawfully ((~~drawn~~)) issued in a set. ((~~Such~~)) Delivery in this manner discharges the bailee's obligation on the whole bill.

Sec. 405. RCW 62A.7-305 and 1965 ex.s. c 157 s 7-305 are each amended to read as follows:

DESTINATION BILLS. ((~~(1)~~)) (a) Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier ((~~may~~)), at the request of the consignor, may procure the bill to be issued at destination or at any other place designated in the request.

((~~(2)~~)) (b) Upon request of ((~~anyone~~)) any person entitled as against ((~~the~~)) a carrier to control the goods while in transit and on surrender of possession or control of any outstanding bill of lading or other receipt covering ((~~such~~)) the goods, the issuer, subject to RCW 62A.7-105, may procure a substitute bill to be issued at any place designated in the request.

Sec. 406. RCW 62A.7-307 and 1965 ex.s. c 157 s 7-307 are each amended to read as follows:

LIEN OF CARRIER. ((~~(1)~~)) (a) A carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges ((~~subsequent to~~)) after the date of ((~~its~~)) the carrier's receipt of the goods for storage or transportation ((~~(~~)), including demurrage and terminal charges((~~)~~)), and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. ((~~But~~)) However, against a purchaser for value of a negotiable bill of lading, a carrier's lien is limited to charges stated in the bill or the applicable tariffs((~~,~~)) or, if no charges are stated ((~~then to~~)), a reasonable charge.

((~~(2)~~)) (b) A lien for charges and expenses under subsection ((~~(1)~~)) (a) of this section on goods ((~~which~~)) that the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to ((~~such~~)) those charges and expenses. Any other lien under subsection ((~~(1)~~)) (a) of this section is effective against the consignor and any person ((~~who~~)) that permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked ((~~such~~)) authority.

((~~(3)~~)) (c) A carrier loses ((~~his~~)) its lien on any goods ((~~which he~~)) that it voluntarily delivers or ((~~which he~~)) unjustifiably refuses to deliver.

Sec. 407. RCW 62A.7-308 and 1965 ex.s. c 157 s 7-308 are each amended to read as follows:

ENFORCEMENT OF CARRIER'S LIEN. ((~~(1)~~)) (a) A carrier's lien on goods may be enforced by public or private sale of the goods, in ((~~bloc~~)) bulk or in ((~~parcels~~)) packages, at any time or place and on any terms ((~~which~~)) that are commercially reasonable, after notifying all persons known to claim an interest in the goods. ((~~Such~~)) The notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different ((~~method~~)) from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The carrier sells goods in a commercially reasonable manner if the carrier ((~~either~~)) sells the goods in the usual manner in any recognized market therefor ((~~or if he~~)), sells at the price current in ((~~such~~)) that market at the time of ((~~his~~)) the sale, or ((~~if he has~~)) otherwise ((~~sold~~)) sells in conformity with commercially reasonable practices among dealers in the type of goods sold ((~~he has sold in a commercially reasonable manner~~)). A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

((~~(2)~~)) (b) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred ((~~under~~)) in complying with this section. In that event, the goods ((~~must~~)) may not be sold((~~,~~)) but must be retained by the carrier, subject to the terms of the bill of lading and this Article.

((~~(3) The~~)) (c) A carrier may buy at any public sale pursuant to this section.

((~~(4)~~)) (d) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against ((~~whom~~)) which the lien was valid, despite the carrier's noncompliance ((~~by the carrier~~)) with ((~~the requirements of~~)) this section.

((~~(5) The~~)) (e) A carrier may satisfy ((~~his~~)) its lien from the proceeds of any sale pursuant to this section but ((~~must~~)) shall hold the balance, if any, for delivery on demand to any person to ((~~whom he~~)) which the carrier would have been bound to deliver the goods.

((~~(6)~~)) (f) The rights provided by this section ((~~shall be~~)) are in addition to all other rights allowed by law to a creditor against ((~~his~~)) a debtor.

((~~(7)~~)) (g) A carrier's lien may be enforced ((~~in accordance with~~)) pursuant to either subsection ((~~(1)~~)) (a) of this section or the procedure set forth in ((~~subsection (2) of~~)) RCW 62A.7-210(b).

((~~(8) The~~)) (h) A carrier is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

Sec. 408. RCW 62A.7-309 and 2009 c 549 s 1017 are each amended to read as follows:

DUTY OF CARE; CONTRACTUAL LIMITATION OF CARRIER'S LIABILITY. Save as otherwise provided in RCW 81.29.010 and 81.29.020:

((~~(1)~~)) (a) A carrier ((~~who~~)) that issues a bill of lading, whether negotiable or nonnegotiable, ((~~must~~)) shall exercise the degree of care in relation to the goods which a reasonably careful person would exercise under ((~~like~~)) similar circumstances. This subsection does not affect any statute, regulation, or rule of law that imposes liability upon a common carrier for damages not caused by its negligence.

((~~(2)~~)) (b) Damages may be limited by a ((~~provision~~)) term in the bill of lading or in a transportation agreement that the carrier's liability ((~~shall~~)) may not exceed a value stated in the ((~~document~~)) bill of lading or transportation agreement if the carrier's rates are dependent upon value and the consignor ((~~by the carrier's tariff~~)) is afforded an opportunity to declare a higher value ((~~or a value as lawfully provided in the tariff, or where no tariff~~)) and the consignor is ((~~filed he or she is otherwise~~)) advised of ((~~such~~)) the opportunity((~~; but no~~)). However, such a limitation is not effective with respect to the carrier's liability for conversion to its own use.

((~~(3)~~)) (c) Reasonable provisions as to the time and manner of presenting claims and ((~~instituting~~)) commencing actions based on the shipment may be included in a bill of lading or ((~~tariff~~)) a transportation agreement.

PART V
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 7 WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL OBLIGATIONS

Sec. 501. RCW 62A.7-401 and 2011 c 336 s 834 are each amended to read as follows:

IRREGULARITIES IN ISSUE OF RECEIPT OR BILL OR CONDUCT OF ISSUER. The obligations imposed by this Article on an issuer apply to a document of title ((~~regardless of the fact that~~)) even if:

((~~(a)~~)) (1) The document ((~~may~~)) does not comply with the requirements of this Article or of any other ((~~law~~)) statute, rule, or regulation regarding its ((~~issue~~)) issuance, form, or content; ((~~or~~

~~(b)~~)) (2) The issuer ((~~may have~~)) violated laws regulating the conduct of ((~~his or her~~)) its business; ((~~or~~

~~(c)~~)) (3) The goods covered by the document were owned by the bailee ((~~at the time~~)) when the document was issued; or

((~~(d)~~)) (4) The person issuing the document ((~~does not come within the definition of warehouse operator if it~~)) is not a warehouse but the document purports to be a warehouse receipt.

Sec. 502. RCW 62A.7-402 and 1965 ex.s. c 157 s 7-402 are each amended to read as follows:

DUPLICATE ((~~RECEIPT OR BILL~~)) DOCUMENT OF TITLE; OVERISSUANCE. ((~~Neither~~)) A duplicate ((~~nor~~)) or any other document of title purporting to cover goods already represented by an outstanding document of the same issuer does not confer((~~s~~)) any right in the goods, except as provided in the case of tangible bills of lading in a set of parts, overissue of documents for fungible goods ((~~and~~)), substitutes for lost, stolen, or destroyed documents, or substitute documents issued pursuant to RCW 62A.7-105. ((~~But~~)) The issuer is

liable for damages caused by ((~~his~~)) its overissue or failure to identify a duplicate document ((~~as such~~)) by a conspicuous notation ((~~on its face~~)).

Sec. 503. RCW 62A.7-403 and 2011 c 336 s 835 are each amended to read as follows:

OBLIGATION OF ((~~WAREHOUSE OPERATOR OR CARRIER~~)) BAILEE TO DELIVER; EXCUSE. (((~~(1) The~~)) (a) A bailee ((~~must~~)) shall deliver the goods to a person entitled under ((~~the~~)) a document ((~~who~~)) of title if the person complies with subsections (((~~(2) and (3)~~)) (b) and (c) of this section, unless and to the extent that the bailee establishes any of the following:

(((~~(a)~~)) (1) Delivery of the goods to a person whose receipt was rightful as against the claimant;

(((~~(b)~~)) (2) Damage to or delay, loss, or destruction of the goods for which the bailee is not liable;

(((~~(c)~~)) (3) Previous sale or other disposition of the goods in lawful enforcement of a lien or on ((~~warehouse operator's~~)) a warehouse's lawful termination of storage;

(((~~(d)~~)) (4) The exercise by a seller of ((~~his or her~~)) its right to stop delivery pursuant to ((~~the provisions of the Article on Sales (~~))RCW 62A.2-705((~~)~~)) or by a lessor of its right to stop delivery pursuant to RCW 62A.2A-526;

(((~~(e)~~)) (5) A diversion, reconsignment, or other disposition pursuant to ((~~the provisions of this Article (~~))RCW 62A.7-303((~~) or tariff regulating such right~~));

(((~~(f)~~)) (6) Release, satisfaction, or any other ((~~fact affording a~~)) personal defense against the claimant; or

(((~~(g)~~)) (7) Any other lawful excuse.

(((~~(2)~~)) (b) A person claiming goods covered by a document of title ((~~must~~)) shall satisfy the bailee's lien ((~~where~~)) if the bailee so requests or ((~~where~~)) if the bailee is prohibited by law from delivering the goods until the charges are paid.

(((~~(3)~~)) (c) Unless ((~~the~~)) a person claiming the goods is ((~~one~~)) a person against ((~~whom~~)) which the document ((~~confers no~~)) of title does not confer a right under RCW 62A.7-503((~~(1), he or she must surrender for cancellation or notation of partial deliveries any outstanding negotiable document covering the goods, and~~)) (a):

(1) The person claiming under a document shall surrender possession or control of any outstanding negotiable document covering the goods for cancellation or indication of partial deliveries; and

(2) The bailee ((~~must~~)) shall cancel the document or conspicuously ((~~note~~)) indicate in the document the partial delivery ((~~thereon or be~~)) or the bailee is liable to any person to ((~~whom~~)) which the document is duly negotiated.

(((~~(4) "Person entitled under the document" means holder in the case of a negotiable document, or the person to whom delivery is to be made by the terms of or pursuant to written instructions under a nonnegotiable document.~~)))

Sec. 504. RCW 62A.7-404 and 1965 ex.s. c 157 s 7-404 are each amended to read as follows:

NO LIABILITY FOR GOOD-FAITH DELIVERY PURSUANT TO ((~~RECEIPT OR BILL~~)) DOCUMENT OF TITLE. A bailee ((~~who in~~)) that in good faith ((~~including observance of reasonable commercial standards~~)) has received goods and delivered or otherwise disposed of ((~~them~~)) the goods

according to the terms of ((~~the~~)) a document of title or pursuant to this Article is not liable ((~~therefor. This rule applies even though~~)) for the goods even if:

(1) The person from ((~~whom he~~)) which the bailee received the goods ((~~had no~~)) did not have authority to procure the document or to dispose of the goods ((~~and even though~~)); or

(2) The person to ((~~whom he~~)) which the bailee delivered the goods ((~~had no~~)) did not have authority to receive ((~~them~~)) the goods.

PART VI
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 7 WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND TRANSFER

Sec. 601. RCW 62A.7-501 and 1965 ex.s. c 157 s 7-501 are each amended to read as follows:

FORM OF NEGOTIATION AND REQUIREMENTS OF ((~~"~~))DUE NEGOTIATION((~~"~~)). (((~~(1)~~))) (a) The following rules apply to a negotiable tangible document of title ((~~running~~)):

(1) If the document's original terms run to the order of a named person, the document is negotiated by ((~~his~~)) the named person's indorsement and delivery. After ((~~his~~)) the named person's indorsement in blank or to bearer, any person ((~~can~~)) may negotiate ((~~it~~)) the document by delivery alone.

(2)(((~~(a) A negotiable document of title is also negotiated by delivery alone when by its original terms it runs to bearer;~~

~~(b) when a document running~~)) If the document's original terms run to bearer, it is negotiated by delivery alone.

(3) If the document's original terms run to the order of a named person and it is delivered to ((~~him~~)) the named person, the effect is the same as if the document had been negotiated.

(((~~(3)~~))) (4) Negotiation of ((~~a negotiable~~)) the document ((~~of title~~)) after it has been indorsed to a ((~~specified~~)) named person requires indorsement by the ((~~special indorsee as well as~~)) named person and delivery.

(((~~(4)~~))) (5) A ((~~negotiable~~)) document ((~~of title~~)) is ((~~"~~))duly negotiated((~~" when~~)) if it is negotiated in the manner stated in this ((~~section~~)) subsection to a holder ((~~who~~)) that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a ((~~money~~)) monetary obligation.

(((~~(5)~~))) (b) The following rules apply to a negotiable electronic document of title:

(1) If the document's original terms run to the order of a named person or to bearer, the document is negotiated by delivery of the document to another person. Indorsement by the named person is not required to negotiate the document.

(2) If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.

(3) A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.

(c) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.

((~~(6)~~)) (d) The naming in a negotiable bill of lading of a person to be notified of the arrival of the goods does not limit the negotiability of the bill ((~~nor~~)) or constitute notice to a purchaser ((~~thereof~~)) of the bill of any interest of ((~~such~~)) that person in the goods.

Sec. 602. RCW 62A.7-502 and 1965 ex.s. c 157 s 7-502 are each amended to read as follows:

RIGHTS ACQUIRED BY DUE NEGOTIATION. ((~~(1)~~)) (a) Subject to ((~~the following section and to the provisions of~~)) RCW 62A.7-205 ((~~on fungible goods~~)) and 62A.7-503, a holder to ((~~whom~~)) which a negotiable document of title has been duly negotiated acquires thereby:

((~~(a)~~)) (1) Title to the document;

((~~(b)~~)) (2) Title to the goods;

((~~(c)~~)) (3) All rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

((~~(d)~~)) (4) The direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by ((~~him~~)) the issuer except those arising under the terms of the document or under this Article((~~.~~)), but in the case of a delivery order, the bailee's obligation accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

((~~(2)~~)) (b) Subject to ((~~the following section~~)) RCW 62A.7-503, title and rights ((~~so~~)) acquired by due negotiation are not defeated by any stoppage of the goods represented by the document of title or by surrender of ((~~such~~)) the goods by the bailee((~~,~~)) and are not impaired even ((~~though~~)) if:

(1) The due negotiation or any prior due negotiation constituted a breach of duty ((~~or even though~~));

(2) Any person has been deprived of possession of ((~~the~~)) a negotiable tangible document or control of a negotiable electronic document by misrepresentation, fraud, accident, mistake, duress, loss, theft, or conversion((~~,~~)); or ((~~even though~~))

(3) A previous sale or other transfer of the goods or document has been made to a third person.

Sec. 603. RCW 62A.7-503 and 2000 c 250 s 9A-814 are each amended to read as follows:

DOCUMENT OF TITLE TO GOODS DEFEATED IN CERTAIN CASES. ((~~(1)~~)) (a) A document of title confers no right in goods against a person ((~~who~~)) that before issuance of the document had a legal interest or a perfected security interest in ((~~them and who neither~~)) the goods and that did not:

(((~~(a) delivered or entrusted them~~))) (1) Deliver or entrust the goods or any document of title covering ((~~them~~)) the goods to the bailor or ((~~his~~)) the bailor's nominee with:

(A) Actual or apparent authority to ship, store, or sell ((~~or with~~));

(B) Power to obtain delivery under ((~~this Article (~~))RCW 62A.7-403((~~)~~)); or ((~~with~~))

(C) Power of disposition under ((~~this Title (~~))RCW 62A.2-403 ((~~and 62A.9A-320~~))), 62A.2A-304(2), 62A.2A-305(2), 62A.9A-320, or 62A.9A-321(c) or other statute or rule of law; ((~~nor~~)) or

(((~~(b) acquiesced~~))) (2) Acquiesce in the procurement by the bailor or ((~~his~~)) its nominee of any document ((~~of title~~)).

(((~~(2)~~))) (b) Title to goods based upon an unaccepted delivery order is subject to the rights of ((~~anyone to whom~~)) any person to which a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. ((~~Such a~~)) That title may be defeated under ((~~the next section~~)) RCW 62A.7-504 to the same extent as the rights of the issuer or a transferee from the issuer.

(((~~(3)~~))) (c) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of ((~~anyone to whom~~)) any person to which a bill issued by the freight forwarder is duly negotiated((~~; but~~)). However, delivery by the carrier in accordance with ((~~Part 4 of this Article~~)) RCW 62A.7-401 through 62A.7-404 pursuant to its own bill of lading discharges the carrier's obligation to deliver.

Sec. 604. RCW 62A.7-504 and 1965 ex.s. c 157 s 7-504 are each amended to read as follows:

RIGHTS ACQUIRED IN ((~~THE~~)) ABSENCE OF DUE NEGOTIATION; EFFECT OF DIVERSION; ((~~SELLER'S~~)) STOPPAGE OF DELIVERY. (((~~(1)~~))) (a) A transferee of a document of title, whether negotiable or nonnegotiable, to ((~~whom~~)) which the document has been delivered but not duly negotiated, acquires the title and rights ((~~which his~~)) that its transferor had or had actual authority to convey.

(((~~(2)~~))) (b) In the case of a transfer of a nonnegotiable document of title, until but not after the bailee receives ((~~notification~~)) notice of the transfer, the rights of the transferee may be defeated:

(((~~(a)~~))) (1) By those creditors of the transferor ((~~who~~)) which could treat the ((~~sale~~)) transfer as void under RCW ((~~62A.7-402; or~~)) 62A.2-402 or 62A.2A-308;

(((~~(b)~~))) (2) By a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of ((~~his~~)) the buyer's rights; ((~~or~~

~~(c)~~)) (3) By a lessee from the transferor in ordinary course of business if the bailee has delivered the goods to the lessee or received notification of the lessee's rights; or

(4) As against the bailee, by good-faith dealings of the bailee with the transferor.

(((~~(3)~~))) (c) A diversion or other change of shipping instructions by the consignor in a nonnegotiable bill of lading which causes the bailee not to deliver the goods to the consignee defeats the consignee's title to the goods if ((~~they~~)) the goods have been delivered to a buyer in ordinary course of business or a

lessee in ordinary course of business and, in any event, defeats the consignee's rights against the bailee.

((~~(4)~~)) (d) Delivery of the goods pursuant to a nonnegotiable document of title may be stopped by a seller under RCW 62A.2-705((~~, and~~)) or a lessor under RCW 62A.2A-526, subject to the requirements of due notification ((~~there provided~~)) in those statutes. A bailee ((~~honoring~~)) that honors the seller's or lessor's instructions is entitled to be indemnified by the seller or lessor against any resulting loss or expense.

Sec. 605. RCW 62A.7-505 and 1965 ex.s. c 157 s 7-505 are each amended to read as follows:

INDORSER NOT ((~~A~~)) GUARANTOR FOR OTHER PARTIES. The indorsement of a tangible document of title issued by a bailee does not make the indorser liable for any default by the bailee or ((~~by~~)) previous indorsers.

Sec. 606. RCW 62A.7-506 and 1965 ex.s. c 157 s 7-506 are each amended to read as follows:

DELIVERY WITHOUT INDORSEMENT: RIGHT TO COMPEL INDORSEMENT. The transferee of a negotiable tangible document of title has a specifically enforceable right to have ((~~his~~)) its transferor supply any necessary indorsement, but the transfer becomes a negotiation only as of the time the indorsement is supplied.

Sec. 607. RCW 62A.7-507 and 1965 ex.s. c 157 s 7-507 are each amended to read as follows:

WARRANTIES ON NEGOTIATION OR ((~~TRANSFER OF RECEIPT OR BILL~~)) DELIVERY OF DOCUMENT OF TITLE. ((~~Where~~)) If a person negotiates or ((~~transfers~~)) delivers a document of title for value, otherwise than as a mere intermediary under ((~~the next following section, then~~)) RCW 62A.7-508, unless otherwise agreed ((~~he warrants to his immediate purchaser only~~)), the transferor, in addition to any warranty made in selling or leasing the goods, warrants to its immediate purchaser only that:

(((~~(a) that~~)) (1) The document is genuine; ((~~and~~

~~(b) that he has no~~)) (2) The transferor does not have knowledge of any fact ((~~which~~)) that would impair ((~~its~~)) the document's validity or worth; and

(((~~(c) that his~~)) (3) The negotiation or ((~~transfer~~)) delivery is rightful and fully effective with respect to the title to the document and the goods it represents.

Sec. 608. RCW 62A.7-508 and 1965 ex.s. c 157 s 7-508 are each amended to read as follows:

WARRANTIES OF COLLECTING BANK AS TO DOCUMENTS OF TITLE. A collecting bank or other intermediary known to be entrusted with documents of title on behalf of another or with collection of a draft or other claim against delivery of documents warrants by ((~~such~~)) the delivery of the documents only its own good faith and authority((~~. This rule applies~~)) even ((~~though~~)) if the collecting bank or other intermediary has purchased or made advances against the claim or draft to be collected.

Sec. 609. RCW 62A.7-509 and 1965 ex.s. c 157 s 7-509 are each amended to read as follows:

((~~RECEIPT OR BILL: WHEN~~)) ADEQUATE COMPLIANCE WITH COMMERCIAL CONTRACT. ((~~The question~~)) Whether a document of title is

adequate to fulfill the obligations of a contract for sale, a contract for lease, or the conditions of a letter of credit is ((~~governed by the Articles on Sales (Article 2) and on Letters of Credit (Article 5)~~)) determined by Article 2, 2A, or 5 of this title.

PART VII
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 7 WAREHOUSE RECEIPTS AND BILLS OF LADING: MISCELLANEOUS PROVISIONS

Sec. 701. RCW 62A.7-601 and 1965 ex.s. c 157 s 7-601 are each amended to read as follows:

LOST ((~~AND MISSING~~)), STOLEN, OR DESTROYED DOCUMENTS OF TITLE. (((~~(1)~~))) (a) If a document ((~~has been~~)) of title is lost, stolen, or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with ((~~such~~)) the order. If the document was negotiable ((~~the claimant must post security approved by the~~)), a court ((~~to indemnify~~)) may not order delivery of the goods or issuance of a substitute document without the claimant's posting security unless it finds that any person ((~~who~~)) that may suffer loss as a result of nonsurrender of possession or control of the document is adequately protected against the loss. If the document was ((~~not negotiable, such~~)) nonnegotiable, the court may require security ((~~may be required at the discretion of the court~~)). The court may also ((~~in its discretion~~)) order payment of the bailee's reasonable costs and ((~~counsel~~)) attorneys' fees in any action under this subsection.

(((~~(2)~~))) (b) A bailee ((~~who~~)) that, without a court order, delivers goods to a person claiming under a missing negotiable document of title is liable to any person injured thereby((~~, and~~)). If the delivery is not in good faith ((~~becomes~~)), the bailee is liable for conversion. Delivery in good faith is not conversion if ((~~made in accordance with a filed classification or tariff or, where no classification or tariff is filed, if~~)) the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery ((~~who~~)) which files a notice of claim within one year after the delivery.

Sec. 702. RCW 62A.7-602 and 1965 ex.s. c 157 s 7-602 are each amended to read as follows:

((~~ATTACHMENT OF~~)) JUDICIAL PROCESS AGAINST GOODS COVERED BY ((~~A~~)) NEGOTIABLE DOCUMENT OF TITLE. ((~~Except where the~~)) Unless a document of title was originally issued upon delivery of the goods by a person ((~~who had no~~)) that did not have power to dispose of them, ((~~no~~)) a lien ((~~attaches~~)) does not attach by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless possession or control of the document ((~~be~~)) is first surrendered to the bailee or ((~~its~~)) the document's negotiation is enjoined((~~, and~~)). The bailee ((~~shall~~)) may not be compelled to deliver the goods pursuant to process until possession or control of the document is surrendered to ((~~him or impounded by~~)) the bailee or to the court. ((~~One who purchases~~)) A purchaser of the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

Sec. 703. RCW 62A.7-603 and 1965 ex.s. c 157 s 7-603 are each amended to read as follows:

CONFLICTING CLAIMS; INTERPLEADER. If more than one person claims title to or possession of the goods, the bailee is excused from delivery until ((~~he~~)) the bailee has ((~~had~~)) a reasonable time to ascertain the validity of the adverse claims or to ((~~bring an action to compel all claimants to interplead and may compel such~~)) commence an action for interpleader. The bailee may assert an interpleader((~~,~~)) either in defending an action for nondelivery of the goods((~~,~~)) or by original action((~~, whichever is appropriate~~)).

PART VIII
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 2

Sec. 801. RCW 62A.2-103 and 2000 c 250 s 9A-803 are each amended to read as follows:

DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this Article unless the context otherwise requires:

(a) "Buyer" means a person who buys or contracts to buy goods.

(b) ((~~"Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.~~)) [Reserved.]

(c) "Receipt" of goods means taking physical possession of them.

(d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:

"Acceptance."	RCW 62A.2-606.
"Banker's credit."	RCW 62A.2-325.
"Between merchants."	RCW 62A.2-104.
"Cancellation."	RCW 62A.2-106(4).
"Commercial unit."	RCW 62A.2-105.
"Confirmed credit."	RCW 62A.2-325.
"Conforming to contract."	RCW 62A.2-106.
"Contract for sale."	RCW 62A.2-106.
"Cover."	RCW 62A.2-712.
"Entrusting."	RCW 62A.2-403.
"Financing agency."	RCW 62A.2-104.
"Future goods."	RCW 62A.2-105.
"Goods."	RCW 62A.2-105.
"Identification."	RCW 62A.2-501.
"Installment contract."	RCW 62A.2-612.
"Letter of credit."	RCW 62A.2-325.
"Lot."	RCW 62A.2-105.
"Merchant."	RCW 62A.2-104.
"Overseas."	RCW 62A.2-323.
"Person in position of seller."	RCW 62A.2-707.
"Present sale."	RCW 62A.2-106.
"Sale."	RCW 62A.2-106.
"Sale on approval."	RCW 62A.2-326.

"Sale or return."	RCW 62A.2-326.
"Termination."	RCW 62A.2-106.

(3) "Control" as provided in RCW 62A.7-106 and the following definitions in other articles apply to this Article:

"Check."	RCW 62A.3-104.
"Consignee."	RCW 62A.7-102.
"Consignor."	RCW 62A.7-102.
"Consumer goods."	RCW 62A.9A-102.
"Dishonor."	RCW 62A.3-502.
"Draft."	RCW 62A.3-104.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 802. RCW 62A.2-104 and 1965 ex.s. c 157 s 2-104 are each amended to read as follows:

DEFINITIONS: "MERCHANT"; "BETWEEN MERCHANTS"; "FINANCING AGENCY."((.)) (1) "Merchant" means a person who deals in goods of the kind or otherwise by his or her occupation holds himself or herself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his or her employment of an agent or broker or other intermediary who by his or her occupation holds himself or herself out as having such knowledge or skill.

(2) "Financing agency" means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller's draft or making advances against it or by merely taking it for collection whether or not documents of title accompany or are associated with the draft. "Financing agency" includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (RCW 62A.2-707).

(3) "Between merchants" means in any transaction with respect to which both parties are chargeable with the knowledge or skill of merchants.

Sec. 803. RCW 62A.2-202 and 1965 ex.s. c 157 s 2-202 are each amended to read as follows:

FINAL WRITTEN EXPRESSION: PAROL OR EXTRINSIC EVIDENCE. Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(a) By course of performance, course of dealing, or usage of trade (((~~(RCW 62A.1-205) or by course of performance (RCW 62A.2-208)~~))) (RCW 62A.1-303); and

(b) By evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

Sec. 804. RCW 62A.2-310 and 1965 ex.s. c 157 s 2-310 are each amended to read as follows:

OPEN TIME FOR PAYMENT OR RUNNING OF CREDIT; AUTHORITY TO SHIP UNDER RESERVATION. Unless otherwise agreed:

(a) Payment is due at the time and place at which the buyer is to receive the goods even though the place of shipment is the place of delivery; and

(b) If the seller is authorized to send the goods he or she may ship them under reservation, and may tender the documents of title, but the buyer may inspect the goods after their arrival before payment is due unless such inspection is inconsistent with the terms of the contract (RCW 62A.2-513); and

(c) If delivery is authorized and made by way of documents of title otherwise than by subsection (b) of this section then payment is due regardless of where the goods are to be received (i) at the time and place at which the buyer is to receive delivery of the tangible documents ((~~regardless of where the goods are to be received~~)) or (ii) at the time the buyer is to receive delivery of the electronic documents and at the seller's place of business or if none, the seller's residence; and

(d) Where the seller is required or authorized to ship the goods on credit the credit period runs from the time of shipment but post-dating the invoice or delaying its dispatch will correspondingly delay the starting of the credit period.

Sec. 805. RCW 62A.2-323 and 1965 ex.s. c 157 s 2-323 are each amended to read as follows:

FORM OF BILL OF LADING REQUIRED IN OVERSEAS SHIPMENT; "OVERSEAS." (1) Where the contract contemplates overseas shipment and contains a term C.I.F. or C.&F. or F.O.B. vessel, the seller unless otherwise agreed must obtain a negotiable bill of lading stating that the goods have been loaded on board or, in the case of a term C.I.F. or C.&F., received for shipment.

(2) Where in a case within subsection (1) of this section a tangible bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set:

(a) Due tender of a single part is acceptable within the provisions of this Article on cure of improper delivery (((~~subsection (1) of~~)) RCW 62A.2-508(1)); and

(b) Even though the full set is demanded, if the documents are sent from abroad the person tendering an incomplete set may nevertheless require payment upon furnishing an indemnity which the buyer in good faith deems adequate.

(3) A shipment by water or by air or a contract contemplating such shipment is "overseas" insofar as by usage of trade or agreement it is subject to the commercial, financing or shipping practices characteristic of international deep water commerce.

Sec. 806. RCW 62A.2-401 and 1965 ex.s. c 157 s 2-401 are each amended to read as follows:

PASSING OF TITLE; RESERVATION FOR SECURITY; LIMITED APPLICATION OF THIS SECTION. Each provision of this Article with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the

provision refers to such title. Insofar as situations are not covered by the other provisions of this Article and matters concerning title become material the following rules apply:

(1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (RCW 62A.2-501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this title. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the Article on Secured Transactions Article 9A, title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his or her performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading:

(a) If the contract requires or authorizes the seller to send the goods to the buyer but does not require him or her to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) If the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods((,)):

(a) If the seller is to deliver a tangible document of title, title passes at the time when and the place where he or she delivers such documents and if the seller is to deliver an electronic document of title, title passes when the seller delivers the document; or

(b) If the goods are at the time of contracting already identified and no documents of title are to be delivered, title passes at the time and place of contracting.

(4) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance revests title to the goods in the seller. Such revesting occurs by operation of law and is not a "sale."((.))

Sec. 807. RCW 62A.2-503 and 1965 ex.s. c 157 s 2-503 are each amended to read as follows:

MANNER OF SELLER'S TENDER OF DELIVERY. (1) Tender of delivery requires that the seller put and hold conforming goods at the buyer's disposition and give the buyer any notification reasonably necessary to enable him or her to take delivery. The manner, time and place for tender are determined by the agreement and this Article, and in particular:

(a) Tender must be at a reasonable hour, and if it is of goods they must be kept available for the period reasonably necessary to enable the buyer to take possession; but

(b) Unless otherwise agreed the buyer must furnish facilities reasonably suited to the receipt of the goods.

(2) Where the case is within the next section respecting shipment tender requires that the seller comply with its provisions.

(3) Where the seller is required to deliver at a particular destination tender requires that he or she comply with subsection (1) of this section and also in any appropriate case tender documents as described in subsections (4) and (5) of this section.

(4) Where goods are in the possession of a bailee and are to be delivered without being moved:

(a) Tender requires that the seller either tender a negotiable document of title covering such goods or procure acknowledgment by the bailee of the buyer's right to possession of the goods; but

(b) Tender to the buyer of a nonnegotiable document of title or of a ((~~written direction to~~)) record directing the bailee to deliver is sufficient tender unless the buyer seasonably objects, and except as otherwise provided in Article 9A of this title, receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the nonnegotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

(5) Where the contract requires the seller to deliver documents:

(a) He or she must tender all such documents in correct form, except as provided in this Article with respect to bills of lading in a set (((~~subsection (2) of~~)) RCW 62A.2-323(2)); and

(b) Tender through customary banking channels is sufficient and dishonor of a draft accompanying or associated with the documents constitutes nonacceptance or rejection.

Sec. 808. RCW 62A.2-505 and 1965 ex.s. c 157 s 2-505 are each amended to read as follows:

SELLER'S SHIPMENT UNDER RESERVATION. (1) Where the seller has identified goods to the contract by or before shipment:

(a) His or her procurement of a negotiable bill of lading to his or her own order or otherwise reserves in him or her a security interest in the goods. His or her procurement of the bill to the order of a financing agency or of the buyer indicates in addition only the seller's expectation of transferring that interest to the person named.

(b) A nonnegotiable bill of lading to himself or herself or his or her nominee reserves possession of the goods as security but except in a case of conditional delivery (((~~subsection (2) of~~)) RCW 62A.2-507(2)) a nonnegotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession or control of the bill of lading.

(2) When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document of title.

Sec. 809. RCW 62A.2-506 and 1965 ex.s. c 157 s 2-506 are each amended to read as follows:

RIGHTS OF FINANCING AGENCY. (1) A financing agency by paying or purchasing for value a draft which relates to a shipment of goods acquires to the

extent of the payment or purchase and in addition to its own rights under the draft and any document of title securing it any rights of the shipper in the goods including the right to stop delivery and the shipper's right to have the draft honored by the buyer.

(2) The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular ((~~on its face~~)).

Sec. 810. RCW 62A.2-509 and 1965 ex.s. c 157 s 2-509 are each amended to read as follows:

RISK OF LOSS IN THE ABSENCE OF BREACH. (1) Where the contract requires or authorizes the seller to ship the goods by carrier:

(a) If it does not require him or her to deliver them at a particular destination, the risk of loss passes to the buyer when the goods are duly delivered to the carrier even though the shipment is under reservation (RCW 62A.2-505); but

(b) If it does require him or her to deliver them at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the buyer when the goods are there duly so tendered as to enable the buyer to take delivery.

(2) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer:

(a) On his or her receipt of possession or control of a negotiable document of title covering the goods; or

(b) On acknowledgment by the bailee of the buyer's right to possession of the goods; or

(c) After his or her receipt of possession or control of a nonnegotiable document of title or other ((~~written~~)) direction to deliver in a record, as provided in ((~~subsection (4)(b) of~~)) RCW 62A.2-503(4)(b).

(3) In any case not within subsection (1) or (2) of this section, the risk of loss passes to the buyer on his or her receipt of the goods if the seller is a merchant; otherwise the risk passes to the buyer on tender of delivery.

(4) The provisions of this section are subject to contrary agreement of the parties and to the provisions of this Article on sale on approval (RCW 62A.2-327) and on effect of breach on risk of loss (RCW 62A.2-510).

Sec. 811. RCW 62A.2-605 and 1965 ex.s. c 157 s 2-605 are each amended to read as follows:

WAIVER OF BUYER'S OBJECTIONS BY FAILURE TO PARTICULARIZE. (1) The buyer's failure to state in connection with rejection a particular defect which is ascertainable by reasonable inspection precludes him or her from relying on the unstated defect to justify rejection or to establish breach:

(a) Where the seller could have cured it if stated seasonably; or

(b) Between merchants when the seller has after rejection made a request in writing for a full and final written statement of all defects on which the buyer proposes to rely.

(2) Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent ((~~on the face of~~)) in the documents.

Sec. 812. RCW 62A.2-705 and 2011 c 336 s 823 are each amended to read as follows:

SELLER'S STOPPAGE OF DELIVERY IN TRANSIT OR OTHERWISE. (1) The seller may stop delivery of goods in the possession of a carrier or other bailee when he or she discovers the buyer to be insolvent (RCW 62A.2-702) and may stop delivery of carload, truckload, planeload((~~,~~)) or larger shipments of express or freight when the buyer repudiates or fails to make a payment due before delivery or if for any other reason the seller has a right to withhold or reclaim the goods.

(2) As against such buyer the seller may stop delivery until:

(a) Receipt of the goods by the buyer; or

(b) Acknowledgment to the buyer by any bailee of the goods except a carrier that the bailee holds the goods for the buyer; or

(c) Such acknowledgment to the buyer by a carrier by reshipment or as a warehouse ((~~operator~~)); or

(d) Negotiation to the buyer of any negotiable document of title covering the goods.

(3)(a) To stop delivery the seller must so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) After such notification the bailee must hold and deliver the goods according to the directions of the seller but the seller is liable to the bailee for any ensuing charges or damages.

(c) If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of possession or control of the document.

(d) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

PART IX
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 2A

Sec. 901. RCW 62A.2A-103 and 2000 c 250 s 9A-808 are each amended to read as follows:

DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this Article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash, or by exchange of other property, or on secured or unsecured credit, and includes ((~~receiving~~)) acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed twenty-five thousand dollars.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

(i) The lessor does not select, manufacture, or supply the goods;

(ii) The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) Only in the case of a consumer lease, either:

(A) The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract; or

(C) The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (RCW 62A.2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of

performance as provided in this Article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this Article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind((,)) but does not include a pawnbroker. "Leasing" may be for cash, or by exchange of other property, or on secured or unsecured credit and includes ((~~receiving~~)) acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:

"Accessions."	RCW 62A.2A-310(1).
"Construction mortgage."	RCW 62A.2A-309(1)(d).
"Encumbrance."	RCW 62A.2A-309(1)(e).
"Fixtures."	RCW 62A.2A-309(1)(a).
"Fixture filing."	RCW 62A.2A-309(1)(b).
"Purchase money lease."	RCW 62A.2A-309(1)(c).

(3) The following definitions in other articles apply to this Article:

"Account."	RCW 62A.9A-102(a)(2).
"Between merchants."	RCW 62A.2-104(3).
"Buyer."	RCW 62A.2-103(1)(a).
"Chattel paper."	RCW 62A.9A-102(a)(11).
"Consumer goods."	RCW 62A.9A-102(a)(23).
"Document."	RCW 62A.9A-102(a)(30).
"Entrusting."	RCW 62A.2-403(3).
"General intangible."	RCW 62A.9A-102(a)(42).
(("Good faith."	RCW 62A.2-103(1)(b).))
"Instrument."	RCW 62A.9A-102(a)(47).
"Merchant."	RCW 62A.2-104(1).
"Mortgage."	RCW 62A.9A-102(a)(55).
"Pursuant to commitment."	RCW 62A.9A-102(a)(68).
"Receipt."	RCW 62A.2-103(1)(c).
"Sale."	RCW 62A.2-106(1).
"Sale on approval."	RCW 62A.2-326.
"Sale or return."	RCW 62A.2-326.
"Seller."	RCW 62A.2-103(1)(d).

(4) In addition, Article ((62A.1 RCW)) 1 of this title contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 902. RCW 62A.2A-103 and 2011 c 74 s 701 are each amended to read as follows:

DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this Article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash, or by exchange of other property, or on secured or unsecured credit, and includes

((~~receiving~~)) acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed twenty-five thousand dollars.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

(i) The lessor does not select, manufacture, or supply the goods;

(ii) The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) Only in the case of a consumer lease, either:

(A) The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract; or

(C) The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (RCW 62A.2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale

or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this Article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind((,)) but does not include a pawnbroker. "Leasing" may be for cash, or by exchange of other property, or on secured or unsecured credit and includes ((~~receiving~~)) acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:

"Accessions."	RCW 62A.2A-310.
"Construction mortgage."	RCW 62A.2A-309.
"Encumbrance."	RCW 62A.2A-309.
"Fixtures."	RCW 62A.2A-309.
"Fixture filing."	RCW 62A.2A-309.
"Purchase money lease."	RCW 62A.2A-309.

(3) The following definitions in other articles apply to this Article:

"Account."	RCW 62A.9A-102.
"Between merchants."	RCW 62A.2-104.
"Buyer."	RCW 62A.2-103.
"Chattel paper."	RCW 62A.9A-102.
"Consumer goods."	RCW 62A.9A-102.
"Document."	RCW 62A.9A-102.
"Entrusting."	RCW 62A.2-403.
"General intangible."	RCW 62A.9A-102.
((~~"Good faith."~~	~~RCW 62A.2-103.~~))
"Instrument."	RCW 62A.9A-102.
"Merchant."	RCW 62A.2-104(1).
"Mortgage."	RCW 62A.9A-102.
"Pursuant to commitment."	RCW 62A.9A-102.
"Receipt."	RCW 62A.2-103.
"Sale."	RCW 62A.2-106.
"Sale on approval."	RCW 62A.2-326.
"Sale or return."	RCW 62A.2-326.
"Seller."	RCW 62A.2-103.

(4) In addition, Article ((~~62A.1 RCW~~)) 1 of this title contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 903. RCW 62A.2A-501 and 1993 c 230 s 2A-501 are each amended to read as follows:

DEFAULT: PROCEDURE. (1) Whether the lessor or the lessee is in default under a lease contract is determined by the lease agreement and this Article.

(2) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement has rights and remedies as provided in this Article and, except as limited by this Article, as provided in the lease agreement.

(3) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement may reduce the party's claim to judgment, or otherwise enforce the lease contract by self help or any available judicial procedure or nonjudicial procedure, including administrative proceeding, arbitration, or the like, in accordance with this Article.

(4) Except as otherwise provided in ((~~RCW 62A.1-106(1)~~)) RCW 62A.1-305(a) or this Article or the lease agreement, the rights and remedies referred to in subsections (2) and (3) of this section are cumulative.

(5) If the lease agreement covers both real property and goods, the party seeking enforcement may proceed under this Part 5 as to the goods, or under other applicable law as to both the real property and the goods in accordance with that party's rights and remedies in respect of the real property, in which case this Part 5 does not apply.

Sec. 904. RCW 62A.2A-514 and 1993 c 230 s 2A-514 are each amended to read as follows:

WAIVER OF LESSEE'S OBJECTIONS. (1) In rejecting goods, a lessee's failure to state a particular defect that is ascertainable by reasonable inspection precludes the lessee from relying on the defect to justify rejection or to establish default:

(a) If, stated seasonably, the lessor or the supplier could have cured it (RCW 62A.2A-513); or

(b) Between merchants if the lessor or the supplier after rejection has made a request in writing for a full and final written statement of all defects on which the lessee proposes to rely.

(2) A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent ((~~on the face of~~)) in the documents.

Sec. 905. RCW 62A.2A-518 and 1993 c 230 s 2A-518 are each amended to read as follows:

COVER; SUBSTITUTE GOODS. (1) After a default by a lessor under the lease contract of the type described in (((~~(~~))RCW 62A.2A-508(1)((~~)~~)), or, if agreed, after other default by the lessor, the lessee may cover by making any purchase or lease of or contract to purchase or lease goods in substitution for those due from the lessor.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (RCW 62A.2A-504) or otherwise determined pursuant to agreement of the parties (((~~RCW 62A.1-102(3)~~)) (RCW 62A.1-302 and 62A.2A-503), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages (i) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and

(ii) any incidental or consequential damages, less expenses saved in consequence of the lessor's default.

(3) If a lessee's cover is by lease agreement that for any reason does not qualify for treatment under subsection (2) of this section, or is by purchase or otherwise, the lessee may recover from the lessor as if the lessee had elected not to cover and RCW 62A.2A-519 governs.

Sec. 906. RCW 62A.2A-519 and 1993 c 230 s 2A-519 are each amended to read as follows:

LESSEE'S DAMAGES FOR NONDELIVERY, REPUDIATION, DEFAULT, AND BREACH OF WARRANTY IN REGARD TO ACCEPTED GOODS. (1) Except as otherwise provided with respect to damages liquidated in the lease agreement (RCW 62A.2A-504) or otherwise determined pursuant to agreement of the parties (((~~(RCW 62A.1-102(3))~~)) (RCW 62A.1-302 and 62A.2A-503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under RCW 62A.2A-518(2), or is by purchase or otherwise, the measure of damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(2) Market rent is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

(3) Except as otherwise agreed, if the lessee has accepted goods and given notification (RCW 62A.2A-516(3)), the measure of damages for nonconforming tender or delivery or other default by a lessor is the loss resulting in the ordinary course of events from the lessor's default as determined in any manner that is reasonable together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(4) Except as otherwise agreed, the measure of damages for breach of warranty is the present value at the time and place of acceptance of the difference between the value of the use of the goods accepted and the value if they had been as warranted for the lease term, unless special circumstances show proximate damages of a different amount, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default or breach of warranty.

Sec. 907. RCW 62A.2A-526 and 2011 c 336 s 824 are each amended to read as follows:

LESSOR'S STOPPAGE OF DELIVERY IN TRANSIT OR OTHERWISE. (1) A lessor may stop delivery of goods in the possession of a carrier or other bailee if the lessor discovers the lessee to be insolvent and may stop delivery of carload, truckload, planeload, or larger shipments of express or freight if the lessee repudiates or fails to make a payment due before delivery, whether for rent, security, or otherwise under the lease contract, or for any other reason the lessor has a right to withhold or take possession of the goods.

(2) In pursuing its remedies under subsection (1) of this section, the lessor may stop delivery until:

(a) Receipt of the goods by the lessee;

(b) Acknowledgment to the lessee by any bailee of the goods, except a carrier, that the bailee holds the goods for the lessee; or

(c) Such an acknowledgment to the lessee by a carrier via reshipment or as a warehouse ((~~operator~~)).

(3)(a) To stop delivery, a lessor shall so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) After notification, the bailee shall hold and deliver the goods according to the directions of the lessor, but the lessor is liable to the bailee for any ensuing charges or damages.

(c) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

Sec. 908. RCW 62A.2A-527 and 1993 c 230 s 2A-527 are each amended to read as follows:

LESSOR'S RIGHTS TO DISPOSE OF GOODS. (1) After a default by a lessee under the lease contract of the type described in RCW 62A.2A-523 (1) or (3)(a) or after the lessor refuses to deliver or takes possession of goods (RCW 62A.2A-525 or 62A.2A-526), or, if agreed, after other default by a lessee, the lessor may dispose of the goods concerned or the undelivered balance thereof by lease, sale, or otherwise.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (RCW 62A.2A-504) or otherwise determined pursuant to agreement of the parties ((~~(RCW 62A.1-102(3))~~)) (RCW 62A.1-302 and 62A.2A-503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (i) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement, (ii) the present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement, and (iii) any incidental damages allowed under RCW 62A.2A-530, less expenses saved in consequence of the lessee's default.

(3) If the lessor's disposition is by lease agreement that for any reason does not qualify for treatment under subsection (2) of this section, or is by sale or otherwise, the lessor may recover from the lessee as if the lessor had elected not to dispose of the goods and RCW 62A.2A-528 governs.

(4) A subsequent buyer or lessee who buys or leases from the lessor in good faith for value as a result of a disposition under this section takes the goods free of the original lease contract and any rights of the original lessee even though the lessor fails to comply with one or more of the requirements of this Article.

(5) The lessor is not accountable to the lessee for any profit made on any disposition. A lessee who has rightfully rejected or justifiably revoked acceptance shall account to the lessor for any excess over the amount of the lessee's security interest (RCW 62A.2A-508((~~(5)~~))).

Sec. 909. RCW 62A.2A-528 and 1993 c 230 s 2A-528 are each amended to read as follows:

LESSOR'S DAMAGES FOR NONACCEPTANCE, FAILURE TO PAY, REPUDIATION, OR OTHER DEFAULT. (1) Except as otherwise provided with respect to damages liquidated in the lease agreement (RCW 62A.2A-504) or otherwise determined pursuant to agreement of the parties ((~~(RCW 62A.1-102(3))~~)) (RCW 62A.1-302 and 62A.2A-503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under RCW 62A.2A-527(2), or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in RCW 62A.2A-523 (1) or (3)(a), or, if agreed, for other default of the lessee, (i) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (ii) the present value as of the date determined under (i) of this subsection ((~~(1)(i) of this section~~)) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (iii) any incidental damages allowed under RCW 62A.2A-530, less expenses saved in consequence of the lessee's default.

(2) If the measure of damages provided in subsection (1) of this section is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the present value of the profit, including reasonable overhead, the lessor would have made from full performance by the lessee, together with any incidental damages allowed under RCW 62A.2A-530, due allowance for costs reasonably incurred and due credit for payments or proceeds of disposition.

PART X
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 3

Sec. 1001. RCW 62A.3-103 and 1993 c 229 s 5 are each amended to read as follows:

DEFINITIONS. (a) In this Article:

(1) "Acceptor" means a drawee who has accepted a draft.

(2) "Drawee" means a person ordered in a draft to make payment.

(3) "Drawer" means a person who signs or is identified in a draft as a person ordering payment.

(4) ((~~"Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.~~)) [Reserved.]

(5) "Maker" means a person who signs or is identified in a note as a person undertaking to pay.

(6) "Order" means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.

(7) "Ordinary care" in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in which the person is

engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank's prescribed procedures and the bank's procedures do not vary unreasonably from general banking usage not disapproved by this Article or Article 4.

(8) "Party" means a party to an instrument.

(9) "Promise" means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.

(10) "Prove" with respect to a fact means to meet the burden of establishing the fact (RCW 62A.1-201(b)(8)).

(11) "Remitter" means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

(b) Other definitions applying to this Article and the sections in which they appear are:

"Acceptance"	RCW 62A.3-409
"Accommodated party"	RCW 62A.3-419
"Accommodation party"	RCW 62A.3-419
"Alteration"	RCW 62A.3-407
"Anomalous indorsement"	RCW 62A.3-205
"Blank indorsement"	RCW 62A.3-205
"Cashier's check"	RCW 62A.3-104
"Certificate of deposit"	RCW 62A.3-104
"Certified check"	RCW 62A.3-409
"Check"	RCW 62A.3-104
"Consideration"	RCW 62A.3-303
"Draft"	RCW 62A.3-104
"Holder in due course"	RCW 62A.3-302
"Incomplete instrument"	RCW 62A.3-115
"Indorsement"	RCW 62A.3-204
"Indorser"	RCW 62A.3-204
"Instrument"	RCW 62A.3-104
"Issue"	RCW 62A.3-105
"Issuer"	RCW 62A.3-105
"Negotiable instrument"	RCW 62A.3-104
"Negotiation"	RCW 62A.3-201
"Note"	RCW 62A.3-104
"Payable at a definite time"	RCW 62A.3-108
"Payable on demand"	RCW 62A.3-108
"Payable to bearer"	RCW 62A.3-109
"Payable to order"	RCW 62A.3-109
"Payment"	RCW 62A.3-602
"Person entitled to enforce"	RCW 62A.3-301
"Presentment"	RCW 62A.3-501
"Reacquisition"	RCW 62A.3-207
"Special indorsement"	RCW 62A.3-205

"Teller's check"	RCW 62A.3-104
"Transfer of instrument"	RCW 62A.3-203
"Traveler's check"	RCW 62A.3-104
"Value"	RCW 62A.3-303

(c) The following definitions in other articles apply to this Article:

(("~~Bank"~~	~~RCW 62A.4-105~~))
"Banking day"	RCW 62A.4-104
"Clearing house"	RCW 62A.4-104
"Collecting bank"	RCW 62A.4-105
"Depositary bank"	RCW 62A.4-105
"Documentary draft"	RCW 62A.4-104
"Intermediary bank"	RCW 62A.4-105
"Item"	RCW 62A.4-104
"Payor bank"	RCW 62A.4-105
"Suspends payments"	RCW 62A.4-104

(d) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

PART XI
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 4

Sec. 1101. RCW 62A.4-104 and 1995 c 48 s 56 are each amended to read as follows:

DEFINITIONS AND INDEX OF DEFINITIONS. (a) In this Article, unless the context otherwise requires:

(1) "Account" means any deposit or credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit;

(2) "Afternoon" means the period of a day between noon and midnight;

(3) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions, except that it shall not include a Saturday, Sunday, or legal holiday;

(4) "Clearing house" means an association of banks or other payors regularly clearing items;

(5) "Customer" means a person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank;

(6) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (RCW 62A.8-102) or instructions for uncertificated securities (RCW 62A.8-102), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft;

(7) "Draft" means a draft as defined in RCW 62A.3-104 or an item, other than an instrument, that is an order;

(8) "Drawee" means a person ordered in a draft to make payment;

(9) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by Article 4A or a credit or debit card slip;

(10) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

(11) "Settle" means to pay in cash, by clearing-house settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final;

(12) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(b) Other definitions applying to this Article and the sections in which they appear are:

"Agreement for electronic presentment"	RCW 62A.4-110.
"Bank"	RCW 62A.4-105.
"Collecting bank"	RCW 62A.4-105.
"Depositary bank"	RCW 62A.4-105.
"Intermediary bank"	RCW 62A.4-105.
"Payor bank"	RCW 62A.4-105.
"Presenting bank"	RCW 62A.4-105.
"Presentment notice"	RCW 62A.4-110.

(c) "Control" as provided in RCW 62A.7-106 and the following definitions in other articles apply to this Article:

"Acceptance"	RCW 62A.3-409.
"Alteration"	RCW 62A.3-407.
"Cashier's check"	RCW 62A.3-104.
"Certificate of deposit"	RCW 62A.3-104.
"Certified check"	RCW 62A.3-409.
"Check"	RCW 62A.3-104.
"Draft"	RCW 62A.3-104.
((~~"Good faith"~~	~~RCW 62A.3-103.~~))
"Holder in due course"	RCW 62A.3-302.
"Instrument"	RCW 62A.3-104.
"Notice of dishonor"	RCW 62A.3-503.
"Order"	RCW 62A.3-103.
"Ordinary care"	RCW 62A.3-103.
"Person entitled to enforce"	RCW 62A.3-301.
"Presentment"	RCW 62A.3-501.
"Promise"	RCW 62A.3-103.
"Prove"	RCW 62A.3-103.
"Teller's check"	RCW 62A.3-104.
"Unauthorized signature"	RCW 62A.3-403.

(d) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 1102. RCW 62A.4-210 and 2001 c 32 s 13 are each amended to read as follows:

SECURITY INTEREST OF COLLECTING BANK IN ITEMS, ACCOMPANYING DOCUMENTS AND PROCEEDS. (a) A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

(1) In case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;

(2) In case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given whether or not the credit is drawn upon or there is a right of charge-back; or

(3) If it makes an advance on or against the item.

(b) If credit given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or possession or control of the accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Article 9A, but:

(1) No security agreement is necessary to make the security interest enforceable (RCW 62A.9A-203(b)(3)(A));

(2) No filing is required to perfect the security interest; and

(3) The security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

PART XII
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 4A

Sec. 1201. RCW 62A.4A-105 and 1991 sp.s. c 21 s 4A-105 are each amended to read as follows:

OTHER DEFINITIONS. (1) In this Article:

(a) "Authorized account" means a deposit account of a customer in a bank designated by the customer as a source of payment orders issued by the customer to the bank. If a customer does not so designate an account, any account of the customer is an authorized account if payment of a payment order from that account is not inconsistent with a restriction on the use of the account.

(b) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company. A branch or separate office of a bank is a separate bank for purposes of this Article.

(c) "Customer" means a person, including a bank, having an account with a bank or from whom a bank has agreed to receive payment orders.

(d) "Funds-transfer business day" of a receiving bank means the part of a day during which the receiving bank is open for the receipt, processing, and

transmittal of payment orders and cancellations and amendments of payment orders.

(e) "Funds-transfer system" means a wire transfer network, automated clearing house, or other communication system of a clearing house or other association of banks through which a payment order by a bank may be transmitted to the bank to which the order is addressed.

(f) ((~~"Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.~~)) [Reserved.]

(g) "Prove" with respect to a fact means to meet the burden of establishing the fact (RCW 62A.1-201(b)(8)).

(2) Other definitions applying to this Article and the sections in which they appear are:

"Acceptance"	RCW 62A.4A-209
"Beneficiary"	RCW 62A.4A-103
"Beneficiary's bank"	RCW 62A.4A-103
"Executed"	RCW 62A.4A-301
"Execution date"	RCW 62A.4A-301
"Funds transfer"	RCW 62A.4A-104
"Funds-transfer system rule"	RCW 62A.4A-501
"Intermediary bank"	RCW 62A.4A-104
"Originator"	RCW 62A.4A-104
"Originator's bank"	RCW 62A.4A-104
"Payment by beneficiary's bank to beneficiary"	RCW 62A.4A-405
"Payment by originator to beneficiary"	RCW 62A.4A-406
"Payment by sender to receiving bank"	RCW 62A.4A-403
"Payment date"	RCW 62A.4A-401
"Payment order"	RCW 62A.4A-103
"Receiving bank"	RCW 62A.4A-103
"Security procedure"	RCW 62A.4A-201
"Sender"	RCW 62A.4A-103

(3) The following definitions in Article 4 (RCW 62A.4-101 through 62A.4-504) apply to this Article:

"Clearing house"	((~~section 4-104 of this act~~)) RCW 62A.4-104
"Item"	((~~section 4-104 of this act~~)) RCW 62A.4-104
"Suspends payments"	((~~section 4-104 of this act~~)) RCW 62A.4-104

(4) In addition ((~~to~~)), Article 1 (((~~RCW 62A.1-101 through 62A.1-208~~))) contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 1202. RCW 62A.4A-106 and 1991 sp.s. c 21 s 4A-106 are each amended to read as follows:

TIME PAYMENT ORDER IS RECEIVED. (1) The time of receipt of a payment order or communication canceling or amending a payment order is determined by the rules applicable to receipt of a notice stated in ((~~RCW 62A.1-201(27)~~)) RCW 62A.1-202. A receiving bank may fix a cut-off time or times on a funds-transfer business day for the receipt and processing of payment orders and communications canceling or amending payment orders. Different cut-off times may apply to payment orders, cancellations, or amendments, or to different categories of payment orders, cancellations, or amendments. A cut-off time may apply to senders generally or different cut-off times may apply to different senders or categories of payment orders. If a payment order or communication canceling or amending a payment order is received after the close of a funds-transfer business day or after the appropriate cut-off time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day.

(2) If this Article refers to an execution date or payment date or states a day on which a receiving bank is required to take action, and the date or day does not fall on a funds-transfer business day, the next day that is a funds-transfer business day is treated as the date or day stated, unless the contrary is stated in this Article.

Sec. 1203. RCW 62A.4A-204 and 1991 sp.s. c 21 s 4A-204 are each amended to read as follows:

REFUND OF PAYMENT AND DUTY OF CUSTOMER TO REPORT WITH RESPECT TO UNAUTHORIZED PAYMENT ORDER. (1) If a receiving bank accepts a payment order issued in the name of its customer as sender which is (a) not authorized and not effective as the order of the customer under RCW 62A.4A-202, or (b) not enforceable, in whole or in part, against the customer under RCW 62A.4A-203, the bank shall refund any payment of the payment order received from the customer to the extent the bank is not entitled to enforce payment and shall pay interest on the refundable amount calculated from the date the bank received payment to the date of the refund. However, the customer is not entitled to interest from the bank on the amount to be refunded if the customer fails to exercise ordinary care to determine that the order was not authorized by the customer and to notify the bank of the relevant facts within a reasonable time not exceeding ninety days after the date the customer received notification from the bank that the order was accepted or that the customer's account was debited with respect to the order. The bank is not entitled to any recovery from the customer on account of a failure by the customer to give notification as stated in this section.

(2) Reasonable time under subsection (1) of this section may be fixed by agreement as stated in ((~~RCW 62A.1-204(1)~~)) RCW 62A.1-302(b), but the obligation of a receiving bank to refund payment as stated in subsection (1) of this section may not otherwise be varied by agreement.

PART XIII
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 5

Sec. 1301. RCW 62A.5-103 and 1997 c 56 s 4 are each amended to read as follows:

SCOPE. ((~~(1)~~)) (a) This Article applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.

((~~(2)~~)) (b) The statement of a rule in this Article does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this Article.

((~~(3)~~)) (c) With the exception of this subsection, subsections ((~~(1)~~)) (a) and ((~~(4)~~)) (d) of this section, RCW 62A.5-102((~~(1) (i)~~)) (a) (9) and ((~~(j)~~)) (10), 62A.5-106((~~(4)~~)) (d), and 62A.5-114((~~(4)~~)) (d), and except to the extent prohibited in ((~~RCW 62A.1-102(3)~~)) RCW 62A.1-302 and 62A.5-117((~~(4)~~)) (d), the effect of this Article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this Article.

((~~(4)~~)) (d) Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

PART XIV
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 8

Sec. 1401. RCW 62A.8-102 and 1995 c 48 s 2 are each amended to read as follows:

DEFINITIONS. (1) In this Article:

(a) "Adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial asset.

(b) "Bearer form," as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.

(c) "Broker" means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

(d) "Certificated security" means a security that is represented by a certificate.

(e) "Clearing corporation" means:

(i) A person that is registered as a "clearing agency" under the federal securities laws;

(ii) A federal reserve bank; or

(iii) Any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including

adoption of rules, are subject to regulation by a federal or state governmental authority.

(f) "Communicate" means to:

(i) Send a signed writing; or

(ii) Transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

(g) "Entitlement holder" means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of RCW 62A.8-501(2) (b) or (c), that person is the entitlement holder.

(h) "Entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

(i) "Financial asset," except as otherwise provided in RCW 62A.8-103, means:

(i) A security;

(ii) An obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(iii) Any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this Article.

As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.

(j) ((~~"Good faith," for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this Article, means honesty in fact and the observance of reasonable commercial standards of fair dealing.~~)) [Reserved.]

(k) "Indorsement" means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.

(l) "Instruction" means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed.

(m) "Registered form," as applied to a certificated security, means a form in which:

(i) The security certificate specifies a person entitled to the security; and

(ii) A transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

(n) "Securities intermediary" means:

(i) A clearing corporation; or

(ii) A person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(o) "Security," except as otherwise provided in RCW 62A.8-103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer:

(i) Which is represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) Which is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations; and

(iii) Which:

(A) Is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

(B) Is a medium for investment and by its terms expressly provides that it is a security governed by this Article.

(p) "Security certificate" means a certificate representing a security.

(q) "Security entitlement" means the rights and property interest of an entitlement holder with respect to a financial asset specified in Part 5 of this Article.

(r) "Uncertificated security" means a security that is not represented by a certificate.

(2) Other definitions applying to this Article and the sections in which they appear are:

Appropriate person	RCW 62A.8-107
Control	RCW 62A.8-106
Delivery	RCW 62A.8-301
Investment company security	RCW 62A.8-103
Issuer	RCW 62A.8-201
Overissue	RCW 62A.8-210
Protected purchaser	RCW 62A.8-303
Securities account	RCW 62A.8-501

(3) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

(4) The characterization of a person, business, or transaction for purposes of this Article does not determine the characterization of the person, business, or transaction for purposes of any other law, regulation, or rule.

Sec. 1402. RCW 62A.8-103 and 2000 c 250 s 9A-815 are each amended to read as follows:

RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS. (1) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(2) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered.

Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(3) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this Article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(4) A writing that is a security certificate is governed by this Article and not by Article 3, even though it also meets the requirements of that Article. However, a negotiable instrument governed by Article 3 is a financial asset if it is held in a securities account.

(5) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(6) A commodity contract, as defined in RCW 62A.9A-102(a)(15), is not a security or a financial asset.

(7) A document of title is not a financial asset unless RCW 62A.8-102(1)(i)(iii) applies.

Sec. 1403. RCW 62A.8-103 and 2011 c 74 s 706 are each amended to read as follows:

RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS. (1) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(2) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(3) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this Article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(4) A writing that is a security certificate is governed by this Article and not by Article 3, even though it also meets the requirements of that Article. However, a negotiable instrument governed by Article 3 is a financial asset if it is held in a securities account.

(5) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(6) A commodity contract, as defined in RCW 62A.9A-102, is not a security or a financial asset.

(7) A document of title is not a financial asset unless RCW 62A.8-102(1)(i)(iii) applies.

PART XV
AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 9A

Sec. 1501. RCW 62A.9A-102 and 2001 c 32 s 16 are each amended to read as follows:

DEFINITIONS AND INDEX OF DEFINITIONS. (a) **Article 9A definitions.** In this Article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2)(A) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables.

(B) The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting," except as used in "accounting for," means a record:

(A) Authenticated by a secured party;

(B) Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the record; and

(C) Identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) Which secures payment or performance of an obligation for:

(i) Goods or services furnished in connection with a debtor's farming operation; or

(ii) Rent on real property leased by a debtor in connection with its farming operation;

(B) Which is created by statute in favor of a person that:

(i) In the ordinary course of its business, furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) Leased real property to a debtor in connection with the debtor's farming operation; and

(C) Whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) Oil, gas, or other minerals that are subject to a security interest that:

(i) Is created by a debtor having an interest in the minerals before extraction; and

(ii) Attaches to the minerals as extracted; or

(B) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) To sign; or

(B) To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subsection, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term "chattel paper" does not include ((~~(A)~~)) (i) charters or other contracts involving the use or hire of a vessel or ((~~(B)~~)) (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) Proceeds to which a security interest attaches;

(B) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) Goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(A) The claimant is an organization; or

(B) The claimant is an individual, and the claim:

(i) Arose in the course of the claimant's business or profession; and

(ii) Does not include damages arising out of personal injury to, or the death of, an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

(A) Is registered as a futures commission merchant under federal commodities law; or

(B) In the ordinary course of its business, provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means:

(A) To send a written or other tangible record;

(B) To transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) "Consignee" means a merchant to which goods are delivered in a consignment.

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) The merchant:

(i) Deals in goods of that kind under a name other than the name of the person making delivery;

(ii) Is not an auctioneer; and

(iii) Is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) With respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery;

(C) The goods are not consumer goods immediately before delivery; and

(D) The transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee in a consignment.

(22) "Consumer debtor" means a debtor in a consumer transaction.

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) "Consumer-goods transaction" means a consumer transaction in which:

(A) An individual incurs a consumer obligation; and

(B) A security interest in consumer goods secures the obligation.

(25) "Consumer obligation" means an obligation which:

(A) Is incurred as part of a transaction entered into primarily for personal, family, or household purposes; and

(B) Arises from an extension of credit, or commitment to extend credit, in an aggregate amount not exceeding forty thousand dollars, or is secured by personal property used or expected to be used as a principal dwelling.

"Consumer obligor" means an obligor who is an individual and who incurred a consumer obligation.

(26) "Consumer transaction" means a transaction in which (((~~(A)~~))) (i) an individual incurs a consumer obligation, (((~~(B)~~))) (ii) a security interest secures the obligation, and (((~~(C)~~))) (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means:

(A) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) A consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in RCW 62A.7-201(((~~(2)~~))) (b).

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) Crops grown, growing, or to be grown, including:

(i) Crops produced on trees, vines, and bushes; and

(ii) Aquatic goods produced in aquacultural operations;

(B) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) Supplies used or produced in a farming operation; or

(D) Products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to RCW 62A.9A-519(a).

(37) "Filing office" means an office designated in RCW 62A.9A-501 as the place to file a financing statement.

(38) "Filing-office rule" means a rule adopted pursuant to RCW 62A.9A-526.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying RCW 62A.9A-502 (a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) ((~~"Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.~~)) [Reserved.]

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (((~~(A)~~))) (i) fixtures, (((~~(B)~~))) (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (((~~(C)~~))) (iii) the unborn young of animals, (((~~(D)~~))) (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (((~~(E)~~))) (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction or a manufactured home converted to real property under chapter 65.20 RCW.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term

does not include (((~~(A)~~))) (i) investment property, (((~~(B)~~))) (ii) letters of credit, (((~~(C)~~))) (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card, (((~~(D)~~))) (iv) writings that do not contain a promise or order to pay, or (((~~(E)~~))) (v) writings that are expressly nontransferable or nonassignable.

(48) "Inventory" means goods, other than farm products, which:

(A) Are leased by a person as lessor;

(B) Are held by a person for sale or lease or to be furnished under a contract of service;

(C) Are furnished by a person under a contract of service; or

(D) Consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) An assignee for benefit of creditors from the time of assignment;

(C) A trustee in bankruptcy from the date of the filing of the petition; or

(D) A receiver in equity from the time of appointment.

(53) "Manufactured home" means a manufactured home or mobile home as defined in RCW 46.04.302.

(54) [Reserved]

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under RCW 62A.9A-203(d) by a security agreement previously entered into by another person.

(57) "New value" means (((~~(A)~~))) (i) money, (((~~(B)~~))) (ii) money's worth in property, services, or new credit, or (((~~(C)~~))) (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (((~~(A)~~))) (i) owes payment or other performance of the obligation, (((~~(B)~~))) (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (((~~(C)~~))) (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor", except as used in RCW 62A.9A-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under RCW 62A.9A-203(d).

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to," with respect to an individual, means:

(A) The spouse of the individual;

(B) A brother, brother-in-law, sister, or sister-in-law of the individual;

(C) An ancestor or lineal descendant of the individual or the individual's spouse; or

(D) Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) "Person related to," with respect to an organization, means:

(A) A person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) An officer or director of, or a person performing similar functions with respect to, the organization;

(C) An officer or director of, or a person performing similar functions with respect to, a person described in (63)(A) of this subsection;

(D) The spouse of an individual described in (63)(A), (B), or (C) of this subsection; or

(E) An individual who is related by blood or marriage to an individual described in (63)(A), (B), (C), or (D) of this subsection and shares the same home with the individual.

(64) "Proceeds", except as used in RCW 62A.9A-609(b), means the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) Whatever is collected on, or distributed on account of, collateral;

(C) Rights arising out of collateral;

(D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party, which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to RCW 62A.9A-620, 62A.9A-621, and 62A.9A-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) Debt securities are issued;

(B) All or a portion of the securities issued have an initial stated maturity of at least twenty years; and

(C) The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(69) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(70) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(71) "Secondary obligor" means an obligor to the extent that:

(A) The obligor's obligation is secondary; or

(B) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) "Secured party" means:

(A) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) A person that holds an agricultural lien;

(C) A consignor;

(D) A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) A person that holds a security interest arising under RCW 62A.2-401, 62A.2-505, 62A.2-711(3), 62A.2A-508(5), 62A.4-210, or 62A.5-118.

(73) "Security agreement" means an agreement that creates or provides for a security interest.

(74) "Send," in connection with a record or notification, means:

(A) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) To cause the record or notification to be received within the time that it would have been received if properly sent under (A) of this subsection.

(75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(76) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(77) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(78) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(79) "Termination statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(80) "Transmitting utility" means a person primarily engaged in the business of:

(A) Operating a railroad, subway, street railway, or trolley bus;

(B) Transmitting communications electrically, electromagnetically, or by light;

(C) Transmitting goods by pipeline or sewer; or

(D) Transmitting or producing and transmitting electricity, steam, gas, or water.

(b) **Definitions in other articles.** "Control" as provided in RCW 62A.7-106 and the following definitions in other articles apply to this Article:

"Applicant."	RCW 62A.5-102.
"Beneficiary."	RCW 62A.5-102.
"Broker."	RCW 62A.8-102.
"Certificated security."	RCW 62A.8-102.
"Check."	RCW 62A.3-104.
"Clearing corporation."	RCW 62A.8-102.
"Contract for sale."	RCW 62A.2-106.
"Customer."	RCW 62A.4-104.
"Entitlement holder."	RCW 62A.8-102.
"Financial asset."	RCW 62A.8-102.
"Holder in due course."	RCW 62A.3-302.
"Issuer" with respect to documents of title.	RCW 62A.7-102.
"Issuer" with respect to a letter of credit or letter-of-credit right.	RCW 62A.5-102.
"Issuer" with respect to a security.	RCW 62A.8-201.
"Lease."	RCW 62A.2A-103.
"Lease agreement."	RCW 62A.2A-103.
"Lease contract."	RCW 62A.2A-103.
"Leasehold interest."	RCW 62A.2A-103.
"Lessee."	RCW 62A.2A-103.
"Lessee in ordinary course of business."	RCW 62A.2A-103.
"Lessor."	RCW 62A.2A-103.

"Lessor's residual interest."	RCW 62A.2A-103.
"Letter of credit."	RCW 62A.5-102.
"Merchant."	RCW 62A.2-104.
"Negotiable instrument."	RCW 62A.3-104.
"Nominated person."	RCW 62A.5-102.
"Note."	RCW 62A.3-104.
"Proceeds of a letter of credit."	RCW 62A.5-114.
"Prove."	RCW 62A.3-103.
"Sale."	RCW 62A.2-106.
"Securities account."	RCW 62A.8-501.
"Securities intermediary."	RCW 62A.8-102.
"Security."	RCW 62A.8-102.
"Security certificate."	RCW 62A.8-102.
"Security entitlement."	RCW 62A.8-102.
"Uncertificated security."	RCW 62A.8-102.

(c) **Article 1 definitions and principles.** Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 1502. RCW 62A.9A-102 and 2011 c 74 s 101 are each amended to read as follows:

DEFINITIONS AND INDEX OF DEFINITIONS. (a) **Article 9A definitions.** In this Article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2)(A) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables.

(B) The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting," except as used in "accounting for," means a record:

(A) Authenticated by a secured party;

(B) Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the record; and

(C) Identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) Which secures payment or performance of an obligation for:

(i) Goods or services furnished in connection with a debtor's farming operation; or

(ii) Rent on real property leased by a debtor in connection with its farming operation;

(B) Which is created by statute in favor of a person that:

(i) In the ordinary course of its business, furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) Leased real property to a debtor in connection with the debtor's farming operation; and

(C) Whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) Oil, gas, or other minerals that are subject to a security interest that:

(i) Is created by a debtor having an interest in the minerals before extraction; and

(ii) Attaches to the minerals as extracted; or

(B) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) To sign; or

(B) With present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this

subsection, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term "chattel paper" does not include (((~~(A)~~))) (i) charters or other contracts involving the use or hire of a vessel or (((~~(B)~~))) (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) Proceeds to which a security interest attaches;

(B) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) Goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(A) The claimant is an organization; or

(B) The claimant is an individual, and the claim:

(i) Arose in the course of the claimant's business or profession; and

(ii) Does not include damages arising out of personal injury to, or the death of, an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

(A) Is registered as a futures commission merchant under federal commodities law; or

(B) In the ordinary course of its business, provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means:

(A) To send a written or other tangible record;

(B) To transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) "Consignee" means a merchant to which goods are delivered in a consignment.

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) The merchant:

(i) Deals in goods of that kind under a name other than the name of the person making delivery;

(ii) Is not an auctioneer; and

(iii) Is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) With respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery;

(C) The goods are not consumer goods immediately before delivery; and

(D) The transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee in a consignment.

(22) "Consumer debtor" means a debtor in a consumer transaction.

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) "Consumer-goods transaction" means a consumer transaction in which:

(A) An individual incurs a consumer obligation; and

(B) A security interest in consumer goods secures the obligation.

(25) "Consumer obligation" means an obligation which:

(A) Is incurred as part of a transaction entered into primarily for personal, family, or household purposes; and

(B) Arises from an extension of credit, or commitment to extend credit, in an aggregate amount not exceeding forty thousand dollars, or is secured by personal property used or expected to be used as a principal dwelling.

"Consumer obligor" means an obligor who is an individual and who incurred a consumer obligation.

(26) "Consumer transaction" means a transaction in which ((~~(A)~~)) (i) an individual incurs a consumer obligation, ((~~(B)~~)) (ii) a security interest secures the obligation, and ((~~(C)~~)) (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means:

(A) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) A consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in RCW 62A.7-201((~~(2)~~)) (b).

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) Crops grown, growing, or to be grown, including:

(i) Crops produced on trees, vines, and bushes; and

(ii) Aquatic goods produced in aquacultural operations;

(B) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) Supplies used or produced in a farming operation; or

(D) Products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to RCW 62A.9A-519(a).

(37) "Filing office" means an office designated in RCW 62A.9A-501 as the place to file a financing statement.

(38) "Filing-office rule" means a rule adopted pursuant to RCW 62A.9A-526.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying RCW 62A.9A-502 (a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) ((~~"Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.~~)) [Reserved.]

(44) "Goods" means all things that are movable when a security interest attaches. The term includes ((~~(A)~~)) (i) fixtures, ((~~(B)~~)) (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, ((~~(C)~~)) (iii) the unborn young of animals, ((~~(D)~~)) (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and ((~~(E)~~)) (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a

manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction or a manufactured home converted to real property under chapter 65.20 RCW.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include ((~~(A)~~)) (i) investment property, ((~~(B)~~)) (ii) letters of credit, ((~~(C)~~)) (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card, ((~~(D)~~)) (iv) writings that do not contain a promise or order to pay, or ((~~(E)~~)) (v) writings that are expressly nontransferable or nonassignable.

(48) "Inventory" means goods, other than farm products, which:

(A) Are leased by a person as lessor;

(B) Are held by a person for sale or lease or to be furnished under a contract of service;

(C) Are furnished by a person under a contract of service; or

(D) Consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) An assignee for benefit of creditors from the time of assignment;

(C) A trustee in bankruptcy from the date of the filing of the petition; or

(D) A receiver in equity from the time of appointment.

(53) "Manufactured home" means a manufactured home or mobile home as defined in RCW 46.04.302.

(54) [Reserved]

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under RCW 62A.9A-203(d) by a security agreement previously entered into by another person.

(57) "New value" means ((~~(A)~~)) (i) money, ((~~(B)~~)) (ii) money's worth in property, services, or new credit, or ((~~(C)~~)) (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, ((~~(A)~~)) (i) owes payment or other performance of the obligation, ((~~(B)~~)) (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or ((~~(C)~~)) (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor", except as used in RCW 62A.9A-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under RCW 62A.9A-203(d).

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to," with respect to an individual, means:

(A) The spouse or state registered domestic partner of the individual;

(B) A brother, brother-in-law, sister, or sister-in-law of the individual;

(C) An ancestor or lineal descendant of the individual or the individual's spouse or state registered domestic partner; or

(D) Any other relative, by blood or by marriage or other law, of the individual or the individual's spouse or state registered domestic partner who shares the same home with the individual.

(63) "Person related to," with respect to an organization, means:

(A) A person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) An officer or director of, or a person performing similar functions with respect to, the organization;

(C) An officer or director of, or a person performing similar functions with respect to, a person described in (63)(A) of this subsection;

(D) The spouse or state registered domestic partner of an individual described in (63)(A), (B), or (C) of this subsection; or

(E) An individual who is related by blood or by marriage or other law to an individual described in (63)(A), (B), (C), or (D) of this subsection and shares the same home with the individual.

(64) "Proceeds", except as used in RCW 62A.9A-609(b), means the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) Whatever is collected on, or distributed on account of, collateral;

(C) Rights arising out of collateral;

(D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party, which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to RCW 62A.9A-620, 62A.9A-621, and 62A.9A-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) Debt securities are issued;

(B) All or a portion of the securities issued have an initial stated maturity of at least twenty years; and

(C) The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Public organic record" means a record that is available to the public for inspection and is:

(A) A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(B) An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(C) A record consisting of legislation enacted by the legislature of a state or the congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or the United States which amends or restates the name of the organization.

(69) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(70) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(71) "Registered organization" means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state.

(72) "Secondary obligor" means an obligor to the extent that:

(A) The obligor's obligation is secondary; or

(B) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(73) "Secured party" means:

(A) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) A person that holds an agricultural lien;

(C) A consignor;

(D) A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) A person that holds a security interest arising under RCW 62A.2-401, 62A.2-505, 62A.2-711(3), 62A.2A-508(5), 62A.4-210, or 62A.5-118.

(74) "Security agreement" means an agreement that creates or provides for a security interest.

(75) "Send," in connection with a record or notification, means:

(A) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) To cause the record or notification to be received within the time that it would have been received if properly sent under (75)(A) of this subsection.

(76) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(77) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(78) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(79) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(80) "Termination statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(81) "Transmitting utility" means a person primarily engaged in the business of:

(A) Operating a railroad, subway, street railway, or trolley bus;

(B) Transmitting communications electrically, electromagnetically, or by light;

(C) Transmitting goods by pipeline or sewer; or

(D) Transmitting or producing and transmitting electricity, steam, gas, or water.

(b) **Definitions in other articles.** "Control" as provided in RCW 62A.7-106 and the following definitions in other articles apply to this Article:

"Applicant."	RCW 62A.5-102.
"Beneficiary."	RCW 62A.5-102.
"Broker."	RCW 62A.8-102.
"Certificated security."	RCW 62A.8-102.
"Check."	RCW 62A.3-104.
"Clearing corporation."	RCW 62A.8-102.
"Contract for sale."	RCW 62A.2-106.
"Customer."	RCW 62A.4-104.
"Entitlement holder."	RCW 62A.8-102.
"Financial asset."	RCW 62A.8-102.
"Holder in due course."	RCW 62A.3-302.
"Issuer" with respect to documents of title.	RCW 62A.7-102.
"Issuer" with respect to a letter of credit or letter-of-credit right.	RCW 62A.5-102.
"Issuer" with respect to a security.	RCW 62A.8-201.
"Lease."	RCW 62A.2A-103.
"Lease agreement."	RCW 62A.2A-103.
"Lease contract."	RCW 62A.2A-103.
"Leasehold interest."	RCW 62A.2A-103.
"Lessee."	RCW 62A.2A-103.
"Lessee in ordinary course of business."	RCW 62A.2A-103.
"Lessor."	RCW 62A.2A-103.
"Lessor's residual interest."	RCW 62A.2A-103.
"Letter of credit."	RCW 62A.5-102.
"Merchant."	RCW 62A.2-104.
"Negotiable instrument."	RCW 62A.3-104.
"Nominated person."	RCW 62A.5-102.
"Note."	RCW 62A.3-104.
"Proceeds of a letter of credit."	RCW 62A.5-114.
"Prove."	RCW 62A.3-103.
"Sale."	RCW 62A.2-106.

"Securities account."	RCW 62A.8-501.
"Securities intermediary."	RCW 62A.8-102.
"Security."	RCW 62A.8-102.
"Security certificate."	RCW 62A.8-102.
"Security entitlement."	RCW 62A.8-102.
"Uncertificated security."	RCW 62A.8-102.

(c) **Article 1 definitions and principles.** Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 1503. RCW 62A.9A-203 and 2000 c 250 s 9A-203 are each amended to read as follows:

ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST; PROCEEDS; SUPPORTING OBLIGATIONS; FORMAL REQUISITES. (a) **Attachment.** A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) **Enforceability.** Except as otherwise provided in subsections (c) through (i) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(1) Value has been given;

(2) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(3) One of the following conditions is met:

(A) The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(B) The collateral is not a certificated security and is in the possession of the secured party under RCW 62A.9A-313 pursuant to the debtor's security agreement;

(C) The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under RCW 62A.8-301 pursuant to the debtor's security agreement; or

(D) The collateral is deposit accounts, electronic chattel paper, investment property, ((~~or~~)) letter-of-credit rights, or electronic documents, and the secured party has control under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107 pursuant to the debtor's security agreement.

(c) **Other UCC provisions.** Subsection (b) of this section is subject to RCW 62A.4-210 on the security interest of a collecting bank, RCW 62A.5-118 on the security interest of a letter-of-credit issuer or nominated person, RCW 62A.9A-110 on a security interest arising under Article 2 or 2A, and RCW 62A.9A-206 on security interests in investment property.

(d) **When person becomes bound by another person's security agreement.** A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this Article or by contract:

(1) The security agreement becomes effective to create a security interest in the person's property; or

(2) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) **Effect of new debtor becoming bound.** If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) The agreement satisfies subsection (b)(3) of this section with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(2) Another agreement is not necessary to make a security interest in the property enforceable.

(f) **Proceeds and supporting obligations.** The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by RCW 62A.9A-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) **Lien securing right to payment.** The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) **Security entitlement carried in securities account.** The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) **Commodity contracts carried in commodity account.** The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Sec. 1504. RCW 62A.9A-207 and 2000 c 250 s 9A-207 are each amended to read as follows:

RIGHTS AND DUTIES OF SECURED PARTY HAVING POSSESSION OR CONTROL OF COLLATERAL. (a) **Duty of care when secured party in possession.** Except as otherwise provided in subsection (d) of this section, a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) **Expenses, risks, duties, and rights when secured party in possession.** Except as otherwise provided in subsection (d) of this section, if a secured party has possession of collateral:

(1) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(3) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) The secured party may use or operate the collateral:

(A) For the purpose of preserving the collateral or its value;

(B) As permitted by an order of a court having competent jurisdiction; or

(C) Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) **Duties and rights when secured party in possession or control.** Except as otherwise provided in subsection (d) of this section, a secured party having possession of collateral or control of collateral under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107:

(1) May hold as additional security any proceeds, except money or funds, received from the collateral;

(2) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) May create a security interest in the collateral.

(d) **Buyer of certain rights to payment.** If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(1) Subsection (a) of this section does not apply unless the secured party is entitled under an agreement:

(A) To charge back uncollected collateral; or

(B) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) Subsections (b) and (c) of this section do not apply.

Sec. 1505. RCW 62A.9A-208 and 2001 c 32 s 21 are each amended to read as follows:

ADDITIONAL DUTIES OF SECURED PARTY HAVING CONTROL OF COLLATERAL. (a) **Applicability of section.** This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) **Duties of secured party after receiving demand from debtor.** Within ten days after receiving an authenticated demand by the debtor:

(1) A secured party having control of a deposit account under RCW 62A.9A-104(a)(2) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) A secured party having control of a deposit account under RCW 62A.9A-104(a)(3) shall:

(A) Pay the debtor the balance on deposit in the deposit account; or

(B) Transfer the balance on deposit into a deposit account in the debtor's name;

(3) A secured party, other than a buyer, having control of electronic chattel paper under RCW 62A.9A-105 shall:

(A) Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

(B) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(4) A secured party having control of investment property under RCW 62A.8-106(4)(b) or 62A.9A-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; ((~~and~~))

(5) A secured party having control of a letter-of-credit right under RCW 62A.9A-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; and

(6) A secured party having control of an electronic document shall:

(A) Give control of the electronic document to the debtor or its designated custodian;

(B) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.

Sec. 1506. RCW 62A.9A-301 and 2001 c 32 s 22 are each amended to read as follows:

LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS. Except as otherwise provided in RCW 62A.9A-303 through 62A.9A-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subsection (4) of this section, while tangible negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(A) Perfection of a security interest in the goods by filing a fixture filing;

(B) Perfection of a security interest in timber to be cut; and

(C) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

Sec. 1507. RCW 62A.9A-310 and 2000 c 250 s 9A-310 are each amended to read as follows:

WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL LIEN; SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING PROVISIONS DO NOT APPLY. (a) **General rule: Perfection by filing.** Except as otherwise provided in subsections (b) and (d) of this section and RCW 62A.9A-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) **Exceptions: Filing not necessary.** The filing of a financing statement is not necessary to perfect a security interest:

(1) That is perfected under RCW 62A.9A-308 (d), (e), (f), or (g);

(2) That is perfected under RCW 62A.9A-309 when it attaches;

(3) In property subject to a statute, regulation, or treaty described in RCW 62A.9A-311(a);

(4) In goods in possession of a bailee which is perfected under RCW 62A.9A-312(d) (1) or (2);

(5) In certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under RCW 62A.9A-312 (e), (f), or (g);

(6) In collateral in the secured party's possession under RCW 62A.9A-313;

(7) In a certificated security which is perfected by delivery of the security certificate to the secured party under RCW 62A.9A-313;

(8) In deposit accounts, electronic chattel paper, electronic documents, investment property, or letter-of-credit rights which is perfected by control under RCW 62A.9A-314;

(9) In proceeds which is perfected under RCW 62A.9A-315; or

(10) That is perfected under RCW 62A.9A-316.

(c) **Assignment of perfected security interest.** If a secured party assigns a perfected security interest or agricultural lien, a filing under this Article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(d) **Further exception: Filing not necessary for handler's lien.** The filing of a financing statement is not necessary to perfect the agricultural lien of a handler on orchard crops as provided in RCW 60.11.020(3).

Sec. 1508. RCW 62A.9A-310 and 2011 c 74 s 709 are each amended to read as follows:

WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL LIEN; SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING PROVISIONS DO NOT APPLY. (a) **General rule: Perfection by filing.** Except as otherwise provided in subsections (b) and (d) of this section and RCW 62A.9A-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) **Exceptions: Filing not necessary.** The filing of a financing statement is not necessary to perfect a security interest:

(1) That is perfected under RCW 62A.9A-308 (d), (e), (f), or (g);

(2) That is perfected under RCW 62A.9A-309 when it attaches;

(3) In property subject to a statute, regulation, or treaty described in RCW 62A.9A-311(a);

(4) In goods in possession of a bailee which is perfected under RCW 62A.9A-312(d) (1) or (2);

(5) In certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under RCW 62A.9A-312 (e), (f), or (g);

(6) In collateral in the secured party's possession under RCW 62A.9A-313;

(7) In a certificated security which is perfected by delivery of the security certificate to the secured party under RCW 62A.9A-313;

(8) In deposit accounts, electronic chattel paper, electronic documents, investment property, or letter-of-credit rights which is perfected by control under RCW 62A.9A-314;

(9) In proceeds which is perfected under RCW 62A.9A-315; or

(10) That is perfected under RCW 62A.9A-316.

(c) **Assignment of perfected security interest.** If a secured party assigns a perfected security interest or agricultural lien, a filing under this Article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(d) **Further exception: Filing not necessary for handler's lien.** The filing of a financing statement is not necessary to perfect the agricultural lien of a handler on orchard crops as provided in RCW 60.11.020(3).

Sec. 1509. RCW 62A.9A-312 and 2000 c 250 s 9A-312 are each amended to read as follows:

PERFECTION OF SECURITY INTERESTS IN CHATTEL PAPER, DEPOSIT ACCOUNTS, DOCUMENTS, GOODS COVERED BY DOCUMENTS, INSTRUMENTS, INVESTMENT PROPERTY, LETTER-OF-CREDIT RIGHTS, AND MONEY; PERFECTION BY PERMISSIVE FILING; TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION. (a) **Perfection by filing permitted.** A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(b) **Control or possession of certain collateral.** Except as otherwise provided in RCW 62A.9A-315 (c) and (d) for proceeds:

(1) A security interest in a deposit account may be perfected only by control under RCW 62A.9A-314;

(2) And except as otherwise provided in RCW 62A.9A-308(d), a security interest in a letter-of-credit right may be perfected only by control under RCW 62A.9A-314; and

(3) A security interest in money may be perfected only by the secured party's taking possession under RCW 62A.9A-313.

(c) **Goods covered by negotiable document.** While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) **Goods covered by nonnegotiable document.** While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(1) Issuance of a document in the name of the secured party;

(2) The bailee's receipt of notification of the secured party's interest; or

(3) Filing as to the goods.

(e) **Temporary perfection: New value.** A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of twenty days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) **Temporary perfection: Goods or documents made available to debtor.** A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(1) Ultimate sale or exchange; or

(2) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) **Temporary perfection: Delivery of security certificate or instrument to debtor.** A perfected security interest in a certificated security or instrument remains perfected for twenty days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(1) Ultimate sale or exchange; or

(2) Presentation, collection, enforcement, renewal, or registration of transfer.

(h) **Expiration of temporary perfection.** After the twenty-day period specified in subsection (e), (f), or (g) of this section expires, perfection depends upon compliance with this Article.

Sec. 1510. RCW 62A.9A-313 and 2001 c 32 s 26 are each amended to read as follows:

WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING. (a) **Perfection by possession or delivery.** Except as otherwise provided in subsection (b) of this section, a secured party may perfect a security interest in tangible negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under RCW 62A.8-301.

(b) **Goods covered by certificate of title.** With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in RCW 62A.9A-316(d).

(c) **Collateral in possession of person other than debtor.** With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) The person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

(d) **Time of perfection by possession; continuation of perfection.** If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) **Time of perfection by delivery; continuation of perfection.** A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under RCW 62A.8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) **Acknowledgment not required.** A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) **Effectiveness of acknowledgment; no duties or confirmation.** If a person acknowledges that it holds possession for the secured party's benefit:

(1) The acknowledgment is effective under subsection (c) of this section or RCW 62A.8-301(1), even if the acknowledgment violates the rights of a debtor; and

(2) Unless the person otherwise agrees or law other than this Article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) **Secured party's delivery to person other than debtor.** A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) To hold possession of the collateral for the secured party's benefit; or

(2) To redeliver the collateral to the secured party.

(i) **Effect of delivery under subsection (h) <u>of this section</u>; no duties or confirmation.** A secured party does not relinquish possession, even if a delivery under subsection (h) of this section violates the rights of a debtor. A person to which collateral is delivered under subsection (h) of this section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this Article otherwise provides.

Sec. 1511. RCW 62A.9A-313 and 2011 c 74 s 710 are each amended to read as follows:

WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING. (a) **Perfection by possession or delivery.** Except as otherwise provided in subsection (b) of this section, a secured party may perfect a security interest in <u>tangible</u> negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under RCW 62A.8-301.

(b) **Goods covered by certificate of title.** With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security

interest in the goods by taking possession of the goods only in the circumstances described in RCW 62A.9A-316(d).

(c) **Collateral in possession of person other than debtor.** With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) The person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

(d) **Time of perfection by possession; continuation of perfection.** If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) **Time of perfection by delivery; continuation of perfection.** A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under RCW 62A.8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) **Acknowledgment not required.** A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) **Effectiveness of acknowledgment; no duties or confirmation.** If a person acknowledges that it holds possession for the secured party's benefit:

(1) The acknowledgment is effective under subsection (c) of this section or RCW 62A.8-301(1), even if the acknowledgment violates the rights of a debtor; and

(2) Unless the person otherwise agrees or law other than this Article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) **Secured party's delivery to person other than debtor.** A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) To hold possession of the collateral for the secured party's benefit; or

(2) To redeliver the collateral to the secured party.

(i) **Effect of delivery under subsection (h) of this section; no duties or confirmation.** A secured party does not relinquish possession, even if a delivery under subsection (h) of this section violates the rights of a debtor. A person to which collateral is delivered under subsection (h) of this section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this Article otherwise provides.

Sec. 1512. RCW 62A.9A-314 and 2000 c 250 s 9A-314 are each amended to read as follows:

PERFECTION BY CONTROL. (a) **Perfection by control.** A security interest in investment property, deposit accounts, letter-of-credit rights, ((~~or~~)) electronic chattel paper, or electronic documents may be perfected by control of the collateral under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107.

(b) **Specified collateral: Time of perfection by control; continuation of perfection.** A security interest in deposit accounts, electronic chattel paper, ((~~or~~)) letter-of-credit rights, or electronic documents is perfected by control under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, or 62A.9A-107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) **Investment property: Time of perfection by control; continuation of perfection.** A security interest in investment property is perfected by control under RCW 62A.9A-106 from the time the secured party obtains control and remains perfected by control until:

(1) The secured party does not have control; and

(2) One of the following occurs:

(A) If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

(B) If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

(C) If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

Sec. 1513. RCW 62A.9A-317 and 2001 c 32 s 27 are each amended to read as follows:

INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN. (a) **Conflicting security interests and rights of lien creditors.** A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under RCW 62A.9A-322; and

(2) Except as otherwise provided in subsection (e) of this section, a person that becomes a lien creditor before the earlier of the time:

(A) The security interest or agricultural lien is perfected; or

(B) One of the conditions specified in RCW 62A.9A-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) **Buyers that receive delivery.** Except as otherwise provided in subsection (e) of this section, a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) **Lessees that receive delivery.** Except as otherwise provided in subsection (e) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) **Licensees and buyers of certain collateral.** A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, electronic documents, general intangibles, or investment property other

than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) **Purchase-money security interest.** Except as otherwise provided in RCW 62A.9A-320 and 62A.9A-321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

Sec. 1514. RCW 62A.9A-317 and 2011 c 74 s 204 are each amended to read as follows:

INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN. (a) **Conflicting security interests and rights of lien creditors.** A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under RCW 62A.9A-322; and

(2) Except as otherwise provided in subsection (e) of this section, a person that becomes a lien creditor before the earlier of the time:

(A) The security interest or agricultural lien is perfected; or

(B) One of the conditions specified in RCW 62A.9A-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) **Buyers that receive delivery.** Except as otherwise provided in subsection (e) of this section, a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) **Lessees that receive delivery.** Except as otherwise provided in subsection (e) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) **Licensees and buyers of certain collateral.** A licensee of a general intangible or a buyer, other than a secured party, of collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) **Purchase-money security interest.** Except as otherwise provided in RCW 62A.9A-320 and 62A.9A-321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

Sec. 1515. RCW 62A.9A-338 and 2000 c 250 s 9A-338 are each amended to read as follows:

PRIORITY OF SECURITY INTEREST OR AGRICULTURAL LIEN PERFECTED BY FILED FINANCING STATEMENT PROVIDING CERTAIN INCORRECT INFORMATION. If a security interest or agricultural lien is perfected by a filed financing statement providing information described in

RCW 62A.9A-516(b)(5) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, tangible documents, goods, instruments, or a security certificate, receives delivery of the collateral.

Sec. 1516. RCW 62A.9A-338 and 2011 c 74 s 715 are each amended to read as follows:

PRIORITY OF SECURITY INTEREST OR AGRICULTURAL LIEN PERFECTED BY FILED FINANCING STATEMENT PROVIDING CERTAIN INCORRECT INFORMATION. If a security interest or agricultural lien is perfected by a filed financing statement providing information described in RCW 62A.9A-516(b)(5) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, tangible documents, goods, instruments, or a security certificate, receives delivery of the collateral.

Sec. 1517. RCW 62A.9A-601 and 2000 c 250 s 9A-601 are each amended to read as follows:

RIGHTS AFTER DEFAULT; JUDICIAL ENFORCEMENT; CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, OR PROMISSORY NOTES. (a) **Rights of secured party after default.** After default, a secured party has the rights provided in this part and, except as otherwise provided in RCW 62A.9A-602, those provided by agreement of the parties. A secured party:

(1) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) **Rights and duties of secured party in possession or control.** A secured party in possession of collateral or control of collateral under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107 has the rights and duties provided in RCW 62A.9A-207.

(c) **Rights cumulative; simultaneous exercise.** The rights under subsections (a) and (b) of this section are cumulative and may be exercised simultaneously.

(d) **Rights of debtor and obligor.** Except as otherwise provided in subsection (g) of this section and RCW 62A.9A-605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) **Lien of levy after judgment.** If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) The date of perfection of the security interest or agricultural lien in the collateral;

(2) The date of filing a financing statement covering the collateral; or

(3) Any date specified in a statute under which the agricultural lien was created.

(f) **Execution sale.** A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.

(g) **Consignor or buyer of certain rights to payment.** Except as otherwise provided in RCW 62A.9A-607(c), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

(h) **Enforcement restrictions.** All rights and remedies provided in this part with respect to promissory notes or an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, are subject to RCW 62A.9A-408 to the extent applicable.

Sec. 1518. RCW 62A.9A-601 and 2011 c 74 s 722 are each amended to read as follows:

RIGHTS AFTER DEFAULT; JUDICIAL ENFORCEMENT; CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, OR PROMISSORY NOTES. (a) **Rights of secured party after default.** After default, a secured party has the rights provided in this part and, except as otherwise provided in RCW 62A.9A-602, those provided by agreement of the parties. A secured party:

(1) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) **Rights and duties of secured party in possession or control.** A secured party in possession of collateral or control of collateral under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107 has the rights and duties provided in RCW 62A.9A-207.

(c) **Rights cumulative; simultaneous exercise.** The rights under subsections (a) and (b) of this section are cumulative and may be exercised simultaneously.

(d) **Rights of debtor and obligor.** Except as otherwise provided in subsection (g) of this section and RCW 62A.9A-605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) **Lien of levy after judgment.** If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) The date of perfection of the security interest or agricultural lien in the collateral;

(2) The date of filing a financing statement covering the collateral; or

(3) Any date specified in a statute under which the agricultural lien was created.

(f) **Execution sale.** A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.

(g) **Consignor or buyer of certain rights to payment.** Except as otherwise provided in RCW 62A.9A-607(c), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

(h) **Enforcement restrictions.** All rights and remedies provided in this part with respect to promissory notes or an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, are subject to RCW 62A.9A-408 to the extent applicable.

PART XVI
STATUTORY REPEALS

NEW SECTION. **Sec. 1601.** The following acts or parts of acts are each repealed:

(1) RCW 62A.1-109 (Section captions) and 1965 ex.s. c 157 s 1-109;

(2) RCW 62A.1-207 (Performance or acceptance under reservation of rights) and 1993 c 229 s 2 & 1965 ex.s. c 157 s 1-207;

(3) RCW 62A.1-208 (Option to accelerate at will) and 1965 ex.s. c 157 s 1-208;

(4) RCW 62A.2-208 (Course of performance or practical construction) and 1965 ex.s. c 157 s 2-208;

(5) RCW 62A.2A-207 (Course of performance or practical construction) and 1993 c 230 s 2A-207;

(6) RCW 62A.10-104 (Laws not repealed) and 1995 c 48 s 71 & 1965 ex.s. c 157 s 10-104; and

(7) 2011 c 74 s 801.

PART XVII
CONFORMING AMENDMENTS TO UCC NUMBERING SYSTEM FOR ARTICLE 5

Sec. 1701. RCW 62A.5-102 and 1997 c 56 s 3 are each amended to read as follows:

((~~(1)~~)) (a) The definitions in this section apply throughout this Article unless the context clearly requires otherwise:

((~~(a)~~)) (1) "Adviser" means a person who, at the request of the issuer, a confirmer, or another adviser, notifies or requests another adviser to notify the beneficiary that a letter of credit has been issued, confirmed, or amended.

((~~(b)~~)) (2) "Applicant" means a person at whose request or for whose account a letter of credit is issued. The term includes a person who requests an issuer to issue a letter of credit on behalf of another if the person making the request undertakes an obligation to reimburse the issuer.

((~~(c)~~)) (3) "Beneficiary" means a person who under the terms of a letter of credit is entitled to have its complying presentation honored. The term includes a person to whom drawing rights have been transferred under a transferable letter of credit.

((~~(d)~~)) (4) "Confirmer" means a nominated person who undertakes, at the request or with the consent of the issuer, to honor a presentation under a letter of credit issued by another.

((~~(e)~~)) (5) "Dishonor" of a letter of credit means failure timely to honor or to take an interim action, such as acceptance of a draft, that may be required by the letter of credit.

((~~(f)~~)) (6) "Document" means a draft or other demand, document of title, investment security, certificate, invoice, or other record, statement, or representation of fact, law, right, or opinion (i) which is presented in a written or other medium permitted by the letter of credit or, unless prohibited by the letter of credit, by the standard practice referred to in RCW 62A.5-108((~~(5)~~)) (e) and (ii) which is capable of being examined for compliance with the terms and conditions of the letter of credit. A document may not be oral.

((~~(g)~~)) (7) "Good faith" means honesty in fact in the conduct or transaction concerned.

((~~(h)~~)) (8) "Honor" of a letter of credit means performance of the issuer's undertaking in the letter of credit to pay or deliver an item of value. Unless the letter of credit otherwise provides, "honor" occurs:

(i) Upon payment;

(ii) If the letter of credit provides for acceptance, upon acceptance of a draft and, at maturity, its payment; or

(iii) If the letter of credit provides for incurring a deferred obligation, upon incurring the obligation and, at maturity, its performance.

((~~(i)~~)) (9) "Issuer" means a bank or other person that issues a letter of credit, but does not include an individual who makes an engagement for personal, family, or household purposes.

((~~(j)~~)) (10) "Letter of credit" means a definite undertaking that satisfies the requirements of RCW 62A.5-104 by an issuer to a beneficiary at the request or for the account of an applicant or, in the case of a financial institution, to itself or for its own account, to honor a documentary presentation by payment or delivery of an item of value.

((~~(k)~~)) (11) "Nominated person" means a person whom the issuer (i) designates or authorizes to pay, accept, negotiate, or otherwise give value under a letter of credit and (ii) undertakes by agreement or custom and practice to reimburse.

((~~(l)~~)) (12) "Presentation" means delivery of a document to an issuer or nominated person for honor or giving of value under a letter of credit.

(((~~(m)~~))) (13) "Presenter" means a person making a presentation as or on behalf of a beneficiary or nominated person.

(((~~(n)~~))) (14) "Record" means information that is inscribed on a tangible medium, or that is stored in an electronic or other medium and is retrievable in perceivable form.

(((~~(o)~~))) (15) "Successor of a beneficiary" means a person who succeeds to substantially all of the rights of a beneficiary by operation of law, including a corporation with or into which the beneficiary has been merged or consolidated, an administrator, executor, personal representative, trustee in bankruptcy, debtor in possession, liquidator, and receiver.

(((~~(2)~~))) (b) Definitions in other Articles applying to this Article and the sections in which they appear are:

"Accept" or	
"Acceptance"	RCW 62A.3-409
"Value"	RCW 62A.3-303, RCW 62A.4-211.

(((~~(3)~~))) (c) Article 1 contains certain additional general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 1702. RCW 62A.5-104 and 1997 c 56 s 5 are each amended to read as follows:

A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a record and is authenticated (((~~(1)~~))) (i) by a signature or (((~~(2)~~))) (ii) in accordance with the agreement of the parties or the standard practice referred to in RCW 62A.5-108(((~~(5)~~))) (e).

Sec. 1703. RCW 62A.5-106 and 1997 c 56 s 7 are each amended to read as follows:

(((~~(1)~~))) (a) A letter of credit is issued and becomes enforceable according to its terms against the issuer when the issuer sends or otherwise transmits it to the person requested to advise or to the beneficiary. A letter of credit is revocable only if it so provides.

(((~~(2)~~))) (b) After a letter of credit is issued, rights and obligations of a beneficiary, applicant, confirmer, and issuer are not affected by an amendment or cancellation to which that person has not consented except to the extent the letter of credit provides that it is revocable or that the issuer may amend or cancel the letter of credit without that consent.

(((~~(3)~~))) (c) If there is no stated expiration date or other provision that determines its duration, a letter of credit expires one year after its stated date of issuance or, if none is stated, after the date on which it is issued.

(((~~(4)~~))) (d) A letter of credit that states that it is perpetual expires five years after its stated date of issuance, or if none is stated, after the date on which it is issued.

Sec. 1704. RCW 62A.5-107 and 1997 c 56 s 8 are each amended to read as follows:

(((~~(1)~~))) (a) A confirmer is directly obligated on a letter of credit and has the rights and obligations of an issuer to the extent of its confirmation. The confirmer also has rights against and obligations to the issuer as if the issuer were an applicant and the confirmer had issued the letter of credit at the request and for the account of the issuer.

((~~(2)~~)) (b) A nominated person who is not a confirmer is not obligated to honor or otherwise give value for a presentation.

((~~(3)~~)) (c) A person requested to advise may decline to act as an adviser. An adviser that is not a confirmer is not obligated to honor or give value for a presentation. An adviser undertakes to the issuer and to the beneficiary accurately to advise the terms of the letter of credit, confirmation, amendment, or advice received by that person and undertakes to the beneficiary to check the apparent authenticity of the request to advise. Even if the advice is inaccurate, the letter of credit, confirmation, or amendment is enforceable as issued.

((~~(4)~~)) (d) A person who notifies a transferee beneficiary of the terms of a letter of credit, confirmation, amendment, or advice has the rights and obligations of an adviser under subsection ((~~(3)~~)) (c) of this section. The terms in the notice to the transferee beneficiary may differ from the terms in any notice to the transferor beneficiary to the extent permitted by the letter of credit, confirmation, amendment, or advice received by the person who so notifies.

Sec. 1705. RCW 62A.5-108 and 1997 c 56 s 9 are each amended to read as follows:

((~~(1)~~)) (a) Except as otherwise provided in RCW 62A.5-109, an issuer shall honor a presentation that, as determined by the standard practice referred to in subsection ((~~(5)~~)) (e) of this section, appears on its face strictly to comply with the terms and conditions of the letter of credit. Except as otherwise provided in RCW 62A.5-113 and unless otherwise agreed with the applicant, an issuer shall dishonor a presentation that does not appear so to comply.

((~~(2)~~)) (b) An issuer has a reasonable time after presentation, but not beyond the end of the seventh business day of the issuer after the day of its receipt of documents:

((~~(a)~~)) (1) To honor;

((~~(b)~~)) (2) If the letter of credit provides for honor to be completed more than seven business days after presentation, to accept a draft or incur a deferred obligation; or

((~~(c)~~)) (3) To give notice to the presenter of discrepancies in the presentation.

((~~(3)~~)) (c) Except as otherwise provided in subsection ((~~(4)~~)) (d) of this section, an issuer is precluded from asserting as a basis for dishonor any discrepancy if timely notice is not given, or any discrepancy not stated in the notice if timely notice is given.

((~~(4)~~)) (d) Failure to give the notice specified in subsection ((~~(2)~~)) (b) of this section or to mention fraud, forgery, or expiration in the notice does not preclude the issuer from asserting as a basis for dishonor fraud or forgery as described in RCW 62A.5-109((~~(1)~~)) (a) or expiration of the letter of credit before presentation.

((~~(5)~~)) (e) An issuer shall observe standard practice of financial institutions that regularly issue letters of credit. Determination of the issuer's observance of the standard practice is a matter of interpretation for the court. The court shall offer the parties a reasonable opportunity to present evidence of the standard practice.

((~~(6)~~)) (f) An issuer is not responsible for:

((~~(a)~~)) (1) The performance or nonperformance of the underlying contract, arrangement, or transaction;

((~~(b)~~)) (2) An act or omission of others; or

((~~(c)~~)) (3) Observance or knowledge of the usage of a particular trade other than the standard practice referred to in subsection ((~~(5)~~)) (e) of this section.

((~~(7)~~)) (g) If an undertaking constituting a letter of credit under RCW 62A.5-102((~~(1)(j)~~)) (a)(10) contains nondocumentary conditions, an issuer shall disregard the nondocumentary conditions and treat them as if they were not stated.

((~~(8)~~)) (h) An issuer that has dishonored a presentation shall return the documents or hold them at the disposal of, and send advice to that effect to, the presenter.

((~~(9)~~)) (i) An issuer that has honored a presentation as permitted or required by this Article:

((~~(a)~~)) (1) Is entitled to be reimbursed by the applicant in immediately available funds not later than the date of its payment of funds;

((~~(b)~~)) (2) Takes the documents free of claims of the beneficiary or presenter;

((~~(c)~~)) (3) Is precluded from asserting a right of recourse on a draft under RCW 62A.3-414 and 62A.3-415;

((~~(d)~~)) (4) Except as otherwise provided in RCW 62A.5-110 and 62A.5-117, is precluded from restitution of money paid or other value given by mistake to the extent the mistake concerns discrepancies in the documents or tender which are apparent on the face of the presentation; and

((~~(e)~~)) (5) Is discharged to the extent of its performance under the letter of credit unless the issuer honored a presentation in which a required signature of a beneficiary was forged.

Sec. 1706. RCW 62A.5-109 and 1997 c 56 s 10 are each amended to read as follows:

((~~(1)~~)) (a) If a presentation is made that appears on its face strictly to comply with the terms and conditions of the letter of credit, but a required document is forged or materially fraudulent, or honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant:

((~~(a)~~)) (1) The issuer shall honor the presentation, if honor is demanded by (i) a nominated person who has given value in good faith and without notice of forgery or material fraud, (ii) a confirmer who has honored its confirmation in good faith, (iii) a holder in due course of a draft drawn under the letter of credit which was taken after acceptance by the issuer or nominated person, or (iv) an assignee of the issuer's or nominated person's deferred obligation that was taken for value and without notice of forgery or material fraud after the obligation was incurred by the issuer or nominated person; and

((~~(b)~~)) (2) The issuer, acting in good faith, may honor or dishonor the presentation in any other case.

((~~(2)~~)) (b) If an applicant claims that a required document is forged or materially fraudulent or that honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant, a court of competent jurisdiction may temporarily or permanently enjoin the issuer from honoring a presentation or grant similar relief against the issuer or other persons only if the court finds that:

((~~(a)~~)) (1) The relief is not prohibited under the law applicable to an accepted draft or deferred obligation incurred by the issuer;

((~~(b)~~)) (2) A beneficiary, issuer, or nominated person who may be adversely affected is adequately protected against loss that it may suffer because the relief is granted;

((~~(c)~~)) (3) All of the conditions to entitle a person to the relief under the law of this state have been met; and

((~~(d)~~)) (4) On the basis of the information submitted to the court, the applicant is more likely than not to succeed under its claim of forgery or material fraud and the person demanding honor does not qualify for protection under subsection ((~~(1)(a)~~)) (a)(1) of this section.

Sec. 1707. RCW 62A.5-110 and 1997 c 56 s 11 are each amended to read as follows:

((~~(1)~~)) (a) If its presentation is honored, the beneficiary warrants:

((~~(a)~~)) (1) To the issuer, any other person to whom presentation is made, and the applicant that there is no fraud or forgery of the kind described in RCW 62A.5-109((~~(1)~~)) (a); and

((~~(b)~~)) (2) To the applicant that the drawing does not violate any agreement between the applicant and beneficiary or any other agreement intended by them to be augmented by the letter of credit.

((~~(2)~~)) (b) The warranties in subsection ((~~(1)~~)) (a) of this section are in addition to warranties arising under Articles 3, 4, 7, and 8 because of the presentation or transfer of documents covered by any of those articles.

Sec. 1708. RCW 62A.5-111 and 1997 c 56 s 12 are each amended to read as follows:

((~~(1)~~)) (a) If an issuer wrongfully dishonors or repudiates its obligation to pay money under a letter of credit before presentation, the beneficiary, successor, or nominated person presenting on its own behalf may recover from the issuer the amount that is the subject of the dishonor or repudiation. If the issuer's obligation under the letter of credit is not for the payment of money, the claimant may obtain specific performance or, at the claimant's election, recover an amount equal to the value of performance from the issuer. In either case, the claimant may also recover incidental but not consequential damages. The claimant is not obligated to take action to avoid damages that might be due from the issuer under this subsection. If, although not obligated to do so, the claimant avoids damages, the claimant's recovery from the issuer must be reduced by the amount of damages avoided. The issuer has the burden of proving the amount of damages avoided. In the case of repudiation the claimant need not present any document.

((~~(2)~~)) (b) If an issuer wrongfully dishonors a draft or demand presented under a letter of credit or honors a draft or demand in breach of its obligation to the applicant, the applicant may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach.

((~~(3)~~)) (c) If an adviser or nominated person other than a confirmer breaches an obligation under this Article or an issuer breaches an obligation not covered in subsection ((~~(1) or (2)~~)) (a) or (b) of this section, a person to whom the obligation is owed may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach. To the extent of the confirmation, a confirmer has the liability of an

issuer specified in this subsection and subsections (((~~(1) and (2)~~))) (a) and (b) of this section.

(((~~(4)~~))) (d) An issuer, nominated person, or adviser who is found liable under subsection (((~~(1), (2), or (3)~~))) (a), (b), or (c) of this section shall pay interest on the amount owed thereunder from the date of wrongful dishonor or other appropriate date.

(((~~(5)~~))) (e) Reasonable attorney's fees and other expenses of litigation must be awarded to the prevailing party in an action in which a remedy is sought under this Article.

(((~~(6)~~))) (f) Damages that would otherwise be payable by a party for breach of an obligation under this Article may be liquidated by agreement or undertaking, but only in an amount or by a formula that is reasonable in light of the harm anticipated.

Sec. 1709. RCW 62A.5-112 and 1997 c 56 s 13 are each amended to read as follows:

(((~~(1)~~))) (a) Except as otherwise provided in RCW 62A.5-113, unless a letter of credit provides that it is transferable, the right of a beneficiary to draw or otherwise demand performance under a letter of credit may not be transferred.

(((~~(2)~~))) (b) Even if a letter of credit provides that it is transferable, the issuer may refuse to recognize or carry out a transfer if:

(((~~(a)~~))) (1) The transfer would violate applicable law; or

(((~~(b)~~))) (2) The transferor or transferee has failed to comply with any requirement stated in the letter of credit or any other requirement relating to transfer imposed by the issuer which is within the standard practice referred to in RCW 62A.5-108(5) or is otherwise reasonable under the circumstances.

Sec. 1710. RCW 62A.5-113 and 1997 c 56 s 14 are each amended to read as follows:

(((~~(1)~~))) (a) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in the name of the beneficiary without disclosing its status as a successor.

(((~~(2)~~))) (b) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in its own name as the disclosed successor of the beneficiary. Except as otherwise provided in subsection (((~~(5)~~))) (e) of this section, an issuer shall recognize a disclosed successor of a beneficiary as beneficiary in full substitution for its predecessor upon compliance with the requirements for recognition by the issuer of a transfer of drawing rights by operation of law under the standard practice referred to in RCW 62A.5-108(((~~(5)~~))) (e) or, in the absence of such a practice, compliance with other reasonable procedures sufficient to protect the issuer.

(((~~(3)~~))) (c) An issuer is not obliged to determine whether a purported successor is a successor of a beneficiary or whether the signature of a purported successor is genuine or authorized.

(((~~(4)~~))) (d) Honor of a purported successor's apparently complying presentation under subsection (((~~(1) or (2)~~))) (a) or (b) of this section has the consequences specified in RCW 62A.5-108(((~~(9)~~))) (i) even if the purported successor is not the successor of a beneficiary. Documents signed in the name of the beneficiary or of a disclosed successor by a person who is neither the

beneficiary nor the successor of the beneficiary are forged documents for the purposes of RCW 62A.5-109.

((~~(5)~~)) (e) An issuer whose rights of reimbursement are not covered by subsection ((~~(4)~~)) (d) of this section or substantially similar law and any confirmer or nominated person may decline to recognize a presentation under subsection ((~~(2)~~)) (b) of this section.

((~~(6)~~)) (f) A beneficiary whose name is changed after the issuance of a letter of credit has the same rights and obligations as a successor of a beneficiary under this section.

Sec. 1711. RCW 62A.5-114 and 1997 c 56 s 15 are each amended to read as follows:

((~~(1)~~)) (a) In this section, "proceeds of a letter of credit" means the cash, check, accepted draft, or other item of value paid or delivered upon honor or giving of value by the issuer or any nominated person under the letter of credit. The term does not include a beneficiary's drawing rights or documents presented by the beneficiary.

((~~(2)~~)) (b) A beneficiary may assign its right to part or all of the proceeds of a letter of credit. The beneficiary may do so before presentation as a present assignment of its right to receive proceeds contingent upon its compliance with the terms and conditions of the letter of credit.

((~~(3)~~)) (c) An issuer or nominated person need not recognize an assignment of proceeds of a letter of credit until it consents to the assignment.

((~~(4)~~)) (d) An issuer or nominated person has no obligation to give or withhold its consent to an assignment of proceeds of a letter of credit, but consent may not be unreasonably withheld if the assignee possesses and exhibits the letter of credit and presentation of the letter of credit is a condition to honor.

((~~(5)~~)) (e) Rights of a transferee beneficiary or nominated person are independent of the beneficiary's assignment of the proceeds of a letter of credit and are superior to the assignee's right to the proceeds.

((~~(6)~~)) (f) Neither the rights recognized by this section between an assignee and an issuer, transferee beneficiary, or nominated person nor the issuer's or nominated person's payment of proceeds to an assignee or a third person affect the rights between the assignee and any person other than the issuer, transferee beneficiary, or nominated person. The mode of creating and perfecting a security interest in or granting an assignment of a beneficiary's rights to proceeds is governed by Article 9A or other law. Against persons other than the issuer, transferee beneficiary, or nominated person, the rights and obligations arising upon the creation of a security interest or other assignment of a beneficiary's right to proceeds and its perfection are governed by Article 9A or other law.

Sec. 1712. RCW 62A.5-116 and 1997 c 56 s 17 are each amended to read as follows:

((~~(1)~~)) (a) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed or otherwise authenticated by the affected parties in the manner provided in RCW 62A.5-104 or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

((~~(2)~~)) (b) Unless subsection ((~~(1)~~)) (a) of this section applies, the liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one address is indicated, the person is considered to be located at the address from which the person's undertaking was issued. For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under this subsection.

((~~(3)~~)) (c) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject. If ((~~(a)~~)) (i) this Article would govern the liability of an issuer, nominated person, or adviser under subsection ((~~(1) or (2)~~)) (a) or (b) of this section, ((~~(b)~~)) (ii) the relevant undertaking incorporates rules of custom or practice, and ((~~(c)~~)) (iii) there is conflict between this Article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in RCW 62A.5-103((~~(3)~~)) (c).

((~~(4)~~)) (d) If there is conflict between this Article and Article 3, 4, 4A, or 9A, this Article governs.

((~~(5)~~)) (e) The forum for settling disputes arising out of an undertaking within this Article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection ((~~(1)~~)) (a) of this section.

Sec. 1713. RCW 62A.5-117 and 1997 c 56 s 18 are each amended to read as follows:

((~~(1)~~)) (a) An issuer that honors a beneficiary's presentation is subrogated to the rights of the beneficiary to the same extent as if the issuer were a secondary obligor of the underlying obligation owed to the beneficiary and of the applicant to the same extent as if the issuer were the secondary obligor of the underlying obligation owed to the applicant.

((~~(2)~~)) (b) An applicant that reimburses an issuer is subrogated to the rights of the issuer against any beneficiary, presenter, or nominated person to the same extent as if the applicant were the secondary obligor of the obligations owed to the issuer and has the rights of subrogation of the issuer to the rights of the beneficiary stated in subsection ((~~(1)~~)) (a) of this section.

((~~(3)~~)) (c) A nominated person who pays or gives value against a draft or demand presented under a letter of credit is subrogated to the rights of:

((~~(a)~~)) (1) The issuer against the applicant to the same extent as if the nominated person were a secondary obligor of the obligation owed to the issuer by the applicant;

((~~(b)~~)) (2) The beneficiary to the same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the beneficiary; and

((~~(c)~~)) (3) The applicant to the same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the applicant.

((~~(4)~~)) (d) Notwithstanding any agreement or term to the contrary, the rights of subrogation stated in subsections ((~~(1) and (2)~~)) (a) and (b) of this section do not arise until the issuer honors the letter of credit or otherwise pays and the rights in subsection ((~~(3)~~)) (c) of this section do not arise until the nominated person pays or otherwise gives value. Until then, the issuer, nominated person, and the applicant do not derive under this section present or prospective rights forming the basis of a claim, defense, or excuse.

Sec. 1714. RCW 62A.5-118 and 2000 c 250 s 2 are each amended to read as follows:

(a) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(b) So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (a) of this section, the security interest continues and is subject to Article 9A, but:

(1) A security agreement is not necessary to make the security interest enforceable under RCW 62A.9A-203((~~(b)(3)~~)) (2)(c);

(2) If the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

(3) If the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.

Sec. 1715. RCW 62A.2-512 and 1997 c 56 s 20 are each amended to read as follows:

(1) Where the contract requires payment before inspection non-conformity of the goods does not excuse the buyer from so making payment unless

(a) the non-conformity appears without inspection; or

(b) despite tender of the required documents the circumstances would justify injunction against honor under the provisions of this Title (RCW 62A.5-109((~~(2)~~)) (b)).

(2) Payment pursuant to subsection (1) does not constitute an acceptance of goods or impair the buyer's right to inspect or any of his or her remedies.

Sec. 1716. RCW 62A.9A-107 and 2001 c 32 s 19 are each amended to read as follows:

A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under RCW 62A.5-114((~~(3)~~)) (c) or otherwise applicable law or practice.

PART XVIII
ADMINISTRATIVE DRAFTING PROVISIONS

NEW SECTION. **Sec. 1801.** Sections 115 through 124 of this act must be placed in chapter 62A.1 RCW under the heading:

PART 3
TERRITORIAL APPLICABILITY AND GENERAL RULES

NEW SECTION. **Sec. 1802.** PART HEADINGS. Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 1803.** APPLICABILITY. This act applies to a transaction that is entered into, a document of title that is issued, or a bailment that arises on or after the effective date of this section. This act does not apply to a transaction that is entered into, a document of title that is issued, or a bailment that arises before the effective date of this section even if the transaction, document of title, or bailment would be subject to this act if the transaction had been entered into, the document of title had been issued, or the bailment had arisen on or after the effective date of this section. This act does not apply to a right of action that has accrued before the effective date of this section.

NEW SECTION. **Sec. 1804.** SAVINGS CLAUSE. A transaction that is entered into, a document of title that is issued, or a bailment that arises before the effective date of this section and the rights, obligations, and interests flowing from that transaction, document, or bailment are governed by any statute or other rule amended or repealed by this act as if amendment or repeal had not occurred and may be terminated, completed, consummated, or enforced under that statute or other rule.

NEW SECTION. **Sec. 1805.** Sections 901, 1402, 1501, 1507, 1510, 1513, 1515, and 1517 of this act expire July 1, 2013.

NEW SECTION. **Sec. 1806.** Sections 902, 1403, 1502, 1508, 1511, 1514, 1516, and 1518 of this act take effect July 1, 2013.

Passed by the House March 3, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 215

[Substitute House Bill 2239]
SOCIAL PURPOSE CORPORATIONS

AN ACT Relating to social purpose corporations; amending RCW 23B.01.400 and 23B.04.010; and adding a new chapter to Title 23B RCW.

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

NEW SECTION. **Sec. 1.** (1) Any corporation may elect to be governed as a social purpose corporation by one of the following means:

(a) One or more persons may act as incorporator or incorporators of a social purpose corporation by delivering articles of incorporation that conform to the requirements of this chapter to the secretary of state for filing; or

(b) Any corporation which is not a social purpose corporation may elect to become a social purpose corporation by complying with section 14 of this act.

(2) Any social purpose corporation may elect to cease to be governed as a social purpose corporation by complying with section 15 of this act.

NEW SECTION. **Sec. 2.** (1) Except as otherwise expressly stated in this chapter, the provisions of this title and all powers, rights, and obligations

thereunder shall apply to social purpose corporations organized under this chapter, and references in this title to the term "corporation" shall be read to include social purpose corporations organized under this chapter.

(2) Subject to any limitations contained in the articles of incorporation, a social purpose corporation may engage in any lawful business under RCW 23B.03.010.

NEW SECTION. **Sec. 3.** Every corporation governed by this chapter must be organized to carry out its business purpose under RCW 23B.03.010 in a manner intended to promote positive short-term or long-term effects of, or minimize adverse short-term or long-term effects of, the corporation's activities upon any or all of (1) the corporation's employees, suppliers, or customers; (2) the local, state, national, or world community; or (3) the environment.

NEW SECTION. **Sec. 4.** In addition to the general social purpose set forth in section 3 of this act, every corporation governed by this chapter may have one or more specific social purposes for which the corporation is organized.

NEW SECTION. **Sec. 5.** (1) In addition to the matters required to be set forth in the articles of incorporation pursuant to RCW 23B.02.020 (1) and (2), the articles of incorporation of a social purpose corporation must set forth:

(a) A corporate name for the social purpose corporation that contains the words "social purpose corporation" or "SPC" as an abbreviation of those words;

(b) A statement that the corporation is organized as a social purpose corporation governed by this chapter;

(c) A statement setting forth the general social purpose or purposes for which the corporation is organized pursuant to section 3 of this act;

(d) If the corporation has designated one or more specific social purpose or purposes pursuant to section 4 of this act, a statement setting forth such specific social purpose or purposes; and

(e) A provision that states the following: "The mission of this social purpose corporation is not necessarily compatible with and may be contrary to maximizing profits and earnings for shareholders, or maximizing shareholder value in any sale, merger, acquisition, or other similar actions of the corporation."

(2) In addition to the matters that must be set forth in the articles of incorporation in accordance with subsection (1) of this section and the provisions that may be set forth in the articles of incorporation pursuant to RCW 23B.02.020 (5) and (6), the articles of incorporation of a social purpose corporation may contain the following provisions:

(a) A provision requiring the corporation's directors or officers to consider the impacts of any corporate action or proposed corporate action upon one or more of the social purposes of the corporation;

(b) A provision requiring the corporation to furnish to the shareholders an assessment of the overall performance of the corporation with respect to its social purpose or purposes, prepared in accordance with a third-party standard;

(c) A provision requiring, for any or all corporate actions, the vote of a larger proportion or of all of the shares of any class or series, or the vote or quorum for taking action of a larger proportion or of all of the directors, than is otherwise required by this title or this chapter;

(d) A provision requiring the approval of the shareholders for any corporate action, even though not otherwise required by this title; and

(e) A provision limiting the duration of the corporation's existence to a specified date.

(3) Prior to the issuance of shares, the corporation shall furnish a prospective shareholder with a copy of the articles of incorporation in the form of a record.

(4) Prior to the transfer of shares, the transferor shareholder shall give notice of the transfer to the corporation. Within a reasonable time after receiving notice, the corporation shall provide the prospective transferee with a copy of the articles of incorporation in the form of a record.

NEW SECTION. **Sec. 6.** (1) A director of a social purpose corporation shall discharge the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the director reasonably believes to be in the best interests of the corporation in accordance with RCW 23B.08.300.

(2) Unless the articles of incorporation provide otherwise, in discharging his or her duties as a director, the director of a social purpose corporation may consider and give weight to one or more of the social purposes of the corporation as the director deems relevant.

(3) Any action taken as a director of a social purpose corporation, or any failure to take any action, that the director reasonably believes is intended to promote one or more of the social purposes of the corporation shall be deemed to be in the best interests of the corporation.

(4) A director of a social purpose corporation is not liable for any action taken as a director, or any failure to take any action, if the director performed the duties of the director's office in compliance with this section.

(5) Nothing in this chapter creates any liability or grants any right in or for any person or any cause of action by or for any person, and a director shall not be responsible to any party other than the corporation and its shareholders.

(6) Nothing in this chapter alters the general standards for any director of a corporation that is not a social purpose corporation.

NEW SECTION. **Sec. 7.** (1) An officer of a social purpose corporation with discretionary authority shall discharge the officer's duties under that authority in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the officer reasonably believes to be in the best interests of the corporation in accordance with RCW 23B.08.420.

(2) Unless the articles of incorporation provide otherwise, in discharging his or her duties as an officer, the officer of a social purpose corporation may consider and give weight to one or more of the social purposes of the corporation as the officer deems relevant.

(3) Any action taken as an officer of a social purpose corporation, or any failure to take any action, that the officer reasonably believes is intended to promote one or more of the social purposes of the corporation shall be deemed to be in the best interests of the corporation.

(4) An officer of a social purpose corporation is not liable for any action taken as an officer, or any failure to take any action, if the officer performed the duties of the officer's office in compliance with this section.

(5) Nothing in this chapter creates any liability or grants any right in or for any person or any cause of action by or for any person, and an officer shall not be responsible to any party other than the corporation and its shareholders.

(6) Nothing in this chapter alters the general standards for any officer of a corporation that is not a social purpose corporation.

NEW SECTION. **Sec. 8.** (1) Shares issued by a social purpose corporation may but need not be represented by certificates.

(2) If shares are represented by certificates, in addition to the information required on certificates by RCW 23B.06.250 (2) and (3), each share certificate must state on its face the following language in a conspicuous manner:

> "This entity is a social purpose corporation organized under Title 23B RCW of the Washington business corporation act. The articles of incorporation of this corporation state one or more social purposes of this corporation. The corporation will furnish the shareholder this information without charge on request in writing."

(3) If shares are not represented by certificates, within a reasonable time after the issue or transfer of such shares, the corporation shall send the shareholder a record containing the information required pursuant to RCW 23B.06.260(2) and the language required on certificates by subsection (2) of this section.

NEW SECTION. **Sec. 9.** (1) No proceeding may be instituted or maintained in the right of any social purpose corporation under this title by any party other than a shareholder of the social purpose corporation.

(2) A person may not commence a proceeding in the right of a social purpose corporation unless the person was a shareholder of the corporation when the transaction complained of occurred or unless the person became a shareholder through transfer by operation of law from one who was a shareholder at that time.

(3) Any proceeding instituted or maintained in the right of a social purpose corporation must comply with the procedure set forth in RCW 23B.07.400.

NEW SECTION. **Sec. 10.** If a proposed amendment to a social purpose corporation's articles of incorporation would materially change one or more of the social purposes of the corporation, in addition to approval in accordance with RCW 23B.10.030, the amendment to be adopted must be approved by two-thirds of the voting group comprising all the votes entitled to be cast on the proposed amendment, and by two-thirds of the holders of the outstanding shares of each class or series, voting as separate voting groups, and of each other voting group entitled under the articles of incorporation to vote separately on the proposed amendment. The articles of incorporation may require a greater vote than that provided for in this section.

NEW SECTION. **Sec. 11.** (1) In addition to approval in accordance with RCW 23B.11.030, a plan of merger or share exchange pursuant to which a social

purpose corporation would not be the surviving corporation must be approved by two-thirds of the voting group comprising all the votes of the corporation entitled to be cast on the plan, and by two-thirds of the holders of the outstanding shares of each class or series, voting as separate voting groups, and of each other voting group entitled under the articles of incorporation to vote separately on the proposed plan. The articles of incorporation may require a greater vote than that provided for in this subsection.

(2) The additional approval described in subsection (1) of this section is not required if the surviving corporation of the plan of merger or share exchange is a social purpose corporation governed by this chapter and includes a specific social purpose or purposes that do not materially differ from the disappearing corporation's specific social purpose or purposes, if any.

NEW SECTION. **Sec. 12.** (1) In addition to approval in accordance with RCW 23B.12.020, a proposed transaction in which the social purpose corporation is to sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property, otherwise than in the usual and regular course of business, must be approved by two-thirds of the voting group comprising all the votes entitled to be cast on the transaction, and by two-thirds of the holders of the outstanding shares of each class or series, voting as separate voting groups, and of each other voting group entitled under the articles of incorporation to vote separately on the proposed transaction. The articles of incorporation may require a greater vote than that provided for in this section.

(2) The additional approval described in subsection (1) of this section is not required if the acquirer of such property is a social purpose corporation governed by this chapter and includes a specific social purpose or purposes that do not materially differ from the disposing corporation's specific social purpose or purposes, if any.

NEW SECTION. **Sec. 13.** In addition to the corporate actions set forth in RCW 23B.13.020(1), a shareholder is entitled to dissent from, and obtain payment of the fair value of the shareholder's shares in the event of, any of the following corporate actions:

(1) An election by a corporation to become a social purpose corporation, which has become effective, to which the corporation is a party if shareholder approval was required for the election by section 14 of this act or the articles of incorporation;

(2) An election to cease to be a social purpose corporation, which has become effective, to which the corporation is a party if shareholder approval was required for the election by section 15 of this act or the articles of incorporation, and the shareholder was entitled to vote on the election; and

(3) An amendment of the social purpose corporation's articles of incorporation that would materially change one or more of the social purposes of the corporation.

NEW SECTION. **Sec. 14.** (1) Any corporation that is not a social purpose corporation may elect to become a social purpose corporation if, pursuant to the proposed election, each of the following conditions are met:

(a) Each share of the same class or series of the electing corporation shall, unless all shareholders of the class or series consent, be treated equally with

respect to any cash, rights, securities, or other property to be received by, or any obligations or restrictions to be imposed on, the holder of that share;

(b) The board of directors of the electing corporation must recommend the election to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the proposed election; and

(c) In addition to any other voting conditions imposed by the board of directors under subsection (2) of this section, the election must be approved by an affirmative vote of at least two-thirds of the voting group comprising all the votes of the electing corporation's shareholders entitled to be cast on the corporate action, and by two-thirds of the holders of the outstanding shares of each class or series, voting as separate voting groups, and each other voting group entitled under the articles of incorporation to vote separately on the corporate action.

(2) The board of directors of a corporation electing to become a social purpose corporation may condition its submission of the proposed election on any basis, including the affirmative vote of holders of a specified percentage of shares held by any group of shareholders not otherwise entitled to vote as a separate group on the proposed election.

(3) To elect to become a social purpose corporation, an electing corporation must amend its articles of incorporation to include the matters required to be set forth in the articles of incorporation pursuant to section 5(1) of this act.

(4) After an election to become a social purpose corporation is approved, and at any time prior to filing the articles of amendment to amend the electing corporation's articles of incorporation in compliance with subsection (3) of this section, the planned election may be abandoned by the electing corporation, subject to any contractual rights, without further shareholder approval, in the manner determined by the board of directors.

(5) The election to become a social purpose corporation shall be effective upon the later of the filing of the articles of amendment with the secretary of state or the effective date or time set forth in the articles of amendment.

(6) Upon the effective time of the election to become a social purpose corporation, the electing corporation shall thereafter be a social purpose corporation and shall be subject to all of the provisions of this chapter and the existence of the social purpose corporation shall be deemed to have commenced on the date the electing corporation was incorporated.

(7) The election to become a social purpose corporation shall not be deemed to affect any obligations or liabilities of the electing corporation incurred prior to its election to become a social purpose corporation or the personal liability of any person incurred prior to such election.

NEW SECTION. **Sec. 15.** (1) Any social purpose corporation may elect to cease to be a social purpose corporation if, pursuant to the proposed election, each of the following conditions are met:

(a) Each share of the same class or series of the electing social purpose corporation shall, unless all shareholders of the class or series consent, be treated equally with respect to any cash, rights, securities, or other property to be received by, or any obligations or restrictions to be imposed on, the holder of that share;

(b) The board of directors of the electing social purpose corporation must recommend the election to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the proposed election; and

(c) In addition to any other voting conditions imposed by the board of directors under subsection (2) of this section, the election must be approved by an affirmative vote of at least two-thirds of the voting group comprising all the votes of the electing social purpose corporation's shareholders entitled to be cast on the corporate action, and by two-thirds of the holders of the outstanding shares of each class or series, voting as separate voting groups, and each other voting group entitled under the articles of incorporation to vote separately on the corporate action.

(2) The board of directors of a social purpose corporation electing to cease to be a social purpose corporation may condition its submission of the proposed election on any basis, including the affirmative vote of holders of a specified percentage of shares held by any group of shareholders not otherwise entitled to vote as a separate group on the proposed election.

(3) To elect to cease to be a social purpose corporation, an electing social purpose corporation must amend its articles of incorporation to remove the matters required to be set forth in the articles of incorporation pursuant to section 5(1) (a) and (b) of this act.

(4) After an election to cease to be a social purpose corporation is approved, and at any time prior to the filing of the articles of amendment to amend the electing social purpose corporation's articles of incorporation in compliance with subsection (3) of this section, the planned election may be abandoned by the electing social purpose corporation, subject to any contractual rights, without further shareholder approval, in the manner determined by the board of directors.

(5) The election to cease to be a social purpose corporation shall be effective upon the later of the filing of the articles of amendment with the secretary of state or the effective date or time set forth in the articles of amendment.

(6) Upon the effective time of the election to cease to be a social purpose corporation, the electing social purpose corporation shall thereafter be a corporation which is not a social purpose corporation and shall be subject to all of the provisions of this title applicable to corporations generally and the existence of the corporation shall be deemed to have commenced on the date the electing social purpose corporation was incorporated.

(7) The election to cease to be a social purpose corporation shall not be deemed to affect any obligations or liabilities of the electing social purpose corporation incurred prior to its election to cease to be a social purpose corporation or the personal liability of any person incurred prior to such election.

NEW SECTION. **Sec. 16.** (1) The board of directors of a social purpose corporation shall cause a social purpose report to be furnished to the shareholders by making such report publicly accessible, free of charge, at the corporation's principal internet web site address, not later than four months after the close of the corporation's fiscal year, and such report shall remain available on that web site through the end of the corporation's fiscal year.

(2) The social purpose report shall include a narrative discussion concerning the social purpose or purposes of the corporation, including the corporation's

efforts intended to promote its social purpose or purposes. The narrative discussion may include the following information:

(a) Identification and discussion of the short-term and long-term objectives of the corporation relating to its social purpose or purposes;

(b) Identification and discussion of the material actions taken by the corporation during the fiscal year to achieve its social purpose or purposes;

(c) Identification of material actions that the corporation expects to take in the future with respect to achievement of its social purpose or purposes; and

(d) A description of the financial, operating, or other measures used by the corporation during the fiscal year for evaluating its performance in achieving its social purpose or purposes.

(3) The requirements of subsection (1) of this section shall be satisfied if a social purpose corporation with an outstanding class of securities registered under section 12 of the securities exchange act of 1934 both complies with section 240.14a-16 of Title 17 of the code of federal regulations, as amended from time to time, with respect to the obligation of a corporation to furnish an annual report to shareholders pursuant to section 240.14a-3(b) of Title 17 of the code of federal regulations, and includes the information required by subsection (2) of this section in the annual report.

(4) The failure to furnish to shareholders a social purpose report required by subsection (1) of this section does not affect the validity of any corporate action.

(5) The superior court of the county in which the social purpose corporation's registered office is located may, after notice to the corporation, summarily order a social purpose report to be furnished to shareholders on application of any shareholder of a social purpose corporation if a social purpose report was not furnished to shareholders for at least two consecutive fiscal years.

Sec. 17. RCW 23B.01.400 and 2009 c 189 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so prepared that a reasonable person against whom the record is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.

(4) "Corporate action" means any resolution, act, policy, contract, transaction, plan, adoption or amendment of articles of incorporation or bylaws, or other matter approved by or submitted for approval to a corporation's incorporators, board of directors or a committee thereof, or shareholders.

(5) "Corporation" or "domestic corporation" means a corporation for profit, <u>including a social purpose corporation,</u> which is not a foreign corporation, incorporated under or subject to the provisions of this title.

(6) "Deliver" includes (a) mailing, (b) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or shareholders, transmission by facsimile equipment, and (c) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its

officers, directors, or shareholders under RCW 23B.01.410 or chapter 23B.07, 23B.08, 23B.11, 23B.13, 23B.14, or 23B.16 RCW delivery by electronic transmission.

(7) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a distribution in partial or complete liquidation, or upon voluntary or involuntary dissolution; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(8) "Effective date of notice" has the meaning provided in RCW 23B.01.410.

(9) "Electronic transmission" means an electronic communication (a) not directly involving the physical transfer of a record in a tangible medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by such a sender and recipient.

(10) "Electronically transmitted" means the initiation of an electronic transmission.

(11) "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

(12) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, two or more persons having a joint or common economic interest, the state, United States, and a foreign governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Execute," "executes," or "executed" means (a) signed with respect to a written record or (b) electronically transmitted along with sufficient information to determine the sender's identity with respect to an electronic transmission, or (c) with respect to a record to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

(14) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(15) "Foreign limited partnership" means a partnership formed under laws other than of this state and having as partners one or more general partners and one or more limited partners.

(16) "General social purpose" means the general social purpose for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with section 5(1)(c) of this act.

(17) "Governmental subdivision" includes authority, county, district, and municipality.

((~~(17)~~)) (18) "Includes" denotes a partial definition.

((~~(18)~~)) (19) "Individual" includes the estate of an incompetent or deceased individual.

((~~(19)~~)) (20) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

((~~(20)~~)) (21) "Means" denotes an exhaustive definition.

((~~(21)~~)) (22) "Notice" has the meaning provided in RCW 23B.01.410.

((~~(22)~~)) (23) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

((~~(23)~~)) (24) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

((~~(24)~~)) (25) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

((~~(25)~~)) (26) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or 15 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute.

((~~(26)~~)) (27) "Record" means information inscribed on a tangible medium or contained in an electronic transmission.

((~~(27)~~)) (28) "Record date" means the date established under chapter 23B.07 RCW on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this title. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

((~~(28)~~)) (29) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under RCW 23B.08.400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

((~~(29)~~)) (30) "Shares" means the units into which the proprietary interests in a corporation are divided.

((~~(30)~~)) (31) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

((~~(31)~~)) (32) "Social purpose" includes any general social purpose and any specific social purpose.

(33) "Social purpose corporation" means a corporation that has elected to be governed as a social purpose corporation under chapter 23B.— RCW (the new chapter created in section 19 of this act).

(34) "Specific social purpose" means the specific social purpose or purposes for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with section 5(2)(a) of this act.

(35) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

((~~(32)~~)) (36) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

((~~(33)~~)) (37) "Tangible medium" means a writing, copy of a writing, or facsimile, or a physical reproduction, each on paper or on other tangible material.

((~~(34)~~)) (38) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

(((~~(35)~~))) (39) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group.

(((~~(36)~~))) (40) "Writing" does not include an electronic transmission.

(((~~(37)~~))) (41) "Written" means embodied in a tangible medium.

Sec. 18. RCW 23B.04.010 and 1998 c 102 s 1 are each amended to read as follows:

(1) A corporate name:

(a) Must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.";

(b) Must not contain language stating or implying that the corporation is organized for a purpose other than those permitted by RCW 23B.03.010 and its articles of incorporation;

(c) Must not contain any of the following words or phrases:

"Bank," "banking," "banker," "trust," "cooperative," or any combination of the words "industrial" and "loan," or any combination of any two or more of the words "building," "savings," "loan," "home," "association," and "society," or any other words or phrases prohibited by any statute of this state; and

(d) Except as authorized by subsections (2) and (3) of this section, must be distinguishable upon the records of the secretary of state from:

(i) The corporate name of a corporation incorporated or authorized to transact business in this state;

(ii) A corporate name reserved or registered under chapter 23B.04 RCW;

(iii) The fictitious name adopted under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(iv) The corporate name or reserved name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state under chapter 24.03 RCW;

(v) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;

(vi) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;

(vii) The name or reserved name of a limited liability company organized or registered under chapter 25.15 RCW; ((~~and~~))

(viii) The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW; and

(ix) The name or reserved name of a social purpose corporation registered under chapter 23B.— RCW (the new chapter created in section 19 of this act).

(2) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in subsection (1) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered

to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(3) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership, that is used in this state if the other entity is formed or authorized to transact business in this state, and the proposed user corporation:

(a) Has merged with the other corporation, limited liability company, or limited partnership; or

(b) Has been formed by reorganization of the other corporation.

(4) This title does not control the use of assumed business names or "trade names."

(5) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," ((~~or~~)) "limited liability partnership," or "social purpose corporation," or the abbreviations "corp.," "inc.," "co.," "ltd.," "LP," "L.P.," "LLP," "L.L.P.," "LLC," ((~~or~~)) "L.L.C." "SPC," or "S.P.C.";

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

NEW SECTION. **Sec. 19.** Sections 1 through 16 of this act constitute a new chapter in Title 23B RCW.

Passed by the House February 13, 2012.
Passed by the Senate March 2, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 216

[House Bill 2293]

NONPROFIT MISCELLANEOUS AND MUTUAL CORPORATIONS

AN ACT Relating to the nonprofit miscellaneous and mutual corporations act; and amending RCW 24.06.032.

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

Sec. 1. RCW 24.06.032 and 2004 c 265 s 40 are each amended to read as follows:

(1) In addition to any other rights and powers granted under this chapter, any mutual or miscellaneous corporation that was organized under this chapter prior to June 10, 2004, and conducts its business on a cooperative basis is entitled, by means of an express election contained in its articles of incorporation or bylaws, to avail itself of part or all of the additional rights and powers granted

to cooperative associations under RCW 23.86.105(1), 23.86.160, and 23.86.170, and, if the corporation is a consumer cooperative, under RCW 23.86.030 (1) and (2).

(2) Any other provision of this chapter notwithstanding:

(a) A consumer cooperative organized under this chapter may give notice to its members of the place, day, and hour of its annual meeting not less than ten nor more than one hundred twenty days before the date of the annual meeting.

(b) A consumer cooperative organized under this chapter may satisfy any provisions of this chapter requiring that certain information or materials must be set forth in a writing accompanying or contained in the notice of a meeting of its members, by: (i) Posting the information or materials on an electronic network not less than thirty days prior to the meeting at which such information or materials will be considered by members; and (ii) delivering to those members who are eligible to vote a notification, either in a meeting notice authorized under this chapter or in such other reasonable form as the board of directors may specify, setting forth the address of the electronic network at which and the date after which such information or materials will be posted and available for viewing by members eligible to vote, together with comprehensible instructions regarding how to obtain access to the information and materials posted on the electronic network. A consumer cooperative that elects to post information or materials required by this chapter on an electronic network shall, at its expense, provide a copy of such information or materials in a written or other tangible medium to any member who is eligible to vote and so requests.

(c) The articles of incorporation or bylaws of a consumer cooperative organized under this chapter may provide that the annual meeting of its members need not involve a physical assembly at a particular geographic location if the meeting is held by means of electronic or other remote communications with its members, in a fashion that its board of directors determines will afford members a reasonable opportunity to read or hear the proceedings substantially concurrently with their occurrence, to vote by electronic transmission on matters submitted to a vote by members, and to pose questions of and make comments to management, subject to such procedural guidelines and limitations as its board of directors may adopt. Members participating in an annual meeting by means of electronic or other remote communications technology in accordance with any such procedural guidelines and limitations shall be deemed present at the meeting for all purposes under this chapter. For any annual meeting of members that is conducted by means of electronic or other remote communications without a physical assembly at a geographic location, the address of the electronic network or other communications site or connection specified in the notice of the meeting shall be deemed to be the place of the meeting.

Passed by the House January 30, 2012.

Passed by the Senate February 29, 2012.

Approved by the Governor March 30, 2012.

Filed in Office of Secretary of State March 30, 2012.

CHAPTER 217

[Engrossed House Bill 2262]

WORKFIRST AND CHILD CARE PROGRAMS—EXPENDITURES

AN ACT Relating to constraints of expenditures for WorkFirst and child care programs; amending RCW 43.88C.010; adding a new section to chapter 74.08A RCW; repealing RCW 74.08A.340; and providing an effective date.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 74.08A RCW to read as follows:

The department of social and health services shall operate the Washington WorkFirst program authorized under RCW 74.08A.210 through 74.08A.330, 43.330.145, 43.215.545, and 74.25.040, and chapter 74.12 RCW within the following constraints:

(1) The program shall be operated within amounts appropriated by the legislature and consistent with policy established by the legislature to achieve self-sufficiency through work and the following additional outcomes:

(a) Recipients' economic status is improving through wage progression, job retention, and educational advancement;

(b) Recipients' status regarding housing stability, medical and behavioral health, and job readiness is improving;

(c) The well-being of children whose caretaker is receiving benefits on their behalf is improving with respect to child welfare and educational achievement.

(2)(a) The department shall create a budget structure that allows for more transparent tracking of program spending. The budget structure shall outline spending for the following: Temporary assistance for needy family grants, working connections child care, WorkFirst activities and administration of the program.

(b) Each biennium, the department shall establish a biennial spending plan, using the budget structure created in (a) of this subsection, for this program and submit the plan to the legislative fiscal committees and the legislative-executive WorkFirst oversight task force no later than July 1st of every odd-numbered year, beginning on July 1, 2013. The department shall update the legislative fiscal committees and the task force on the spending plan if modifications are made to the plan previously submitted to the legislature and the task force for that biennium.

(c) The department also shall provide expenditure reports to the fiscal committees of the legislature and the legislative-executive WorkFirst oversight task force beginning September 1, 2012, and on a quarterly basis thereafter. If the department determines, based upon quarterly expenditure reports, that expenditures will exceed funding at the end of the fiscal year, the department shall take those actions necessary to ensure that services provided under this chapter are available only to the extent of and consistent with appropriations in the operating budget and policy established by the legislature following notification provided in (b) of this subsection.

(3) No more than fifteen percent of the temporary assistance for needy families block grant, the federal child care funds, and qualifying state expenditures may be spent for administrative purposes. For purposes of this subsection, "administrative purposes" does not include expenditures for

information technology and computerization needed for tracking and monitoring required by P.L. 104-193.

(4) The department shall expend funds appropriated for work activities, as defined in RCW 74.08A.250, or for other services provided to WorkFirst recipients, as authorized under RCW 74.08A.290.

NEW SECTION. **Sec. 2.** RCW 74.08A.340 (Funding restrictions) and 2009 c 564 s 953, 2008 c 329 s 922, 2007 c 522 s 957, 2006 c 265 s 209, & 1997 c 58 s 321 are each repealed.

Sec. 3. RCW 43.88C.010 and 2011 c 304 s 2 are each amended to read as follows:

(1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means:

(a) The number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;

(b) The number of students who are eligible for the Washington college bound scholarship program and are expected to attend an institution of higher education as defined in RCW 28B.92.030.

(8) The caseload forecast council shall forecast the temporary assistance for needy families and the working connections child care programs as a courtesy.

(9) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter.

NEW SECTION. **Sec. 4.** This act takes effect July 1, 2012.

Passed by the House March 8, 2012.
Passed by the Senate March 8, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 218

[House Bill 2305]

PUBLIC IMPROVEMENTS—
CONTRACTS WITH COMMUNITY SERVICE ORGANIZATIONS

AN ACT Relating to contracts with community service organizations for public improvements; and amending RCW 35.21.278.

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

Sec. 1. RCW 35.21.278 and 1988 c 233 s 1 are each amended to read as follows:

(1) Without regard to competitive bidding laws for public works, a county, city, town, school district, metropolitan park district, park and recreation district, port district, or park and recreation service area may contract with a chamber of commerce, a service organization, a community, youth, or athletic association, or other similar association located and providing service in the immediate neighborhood, for drawing design plans, making improvements to a park, school playground, ((~~or~~)) public square, or port habitat site, installing equipment or artworks, or providing maintenance services for ((~~the~~)) a facility or facilities as a community or neighborhood project, or environmental stewardship project, and may reimburse the contracting association its expense. The contracting association may use volunteers in the project and provide the volunteers with clothing or tools; meals or refreshments; accident/injury insurance coverage; and reimbursement of their expenses. The consideration to be received by the public entity through the value of the improvements, artworks, equipment, or maintenance shall have a value at least equal to three times that of the payment to the contracting association. All payments made by a public entity under the authority of this section for all such contracts in any one year shall not exceed twenty-five thousand dollars or two dollars per resident within the boundaries of the public entity, whichever is greater.

(2) A county, city, town, school district, metropolitan park district, park and recreation district, or park and recreation service area may ratify an agreement, which qualifies under subsection (1) of this section and was made before June 9, 1988.

Passed by the House February 1, 2012.
Passed by the Senate March 1, 2012.

Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 219

[Substitute House Bill 2326]

SOLID FUEL BURNING DEVICES—AIR QUALITY

AN ACT Relating to protecting air quality that is impacted by high emitting solid fuel burning devices; amending RCW 70.94.473 and 70.94.477; adding a new section to chapter 70.94 RCW; and providing an expiration date.

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

Sec. 1. RCW 70.94.473 and 2008 c 40 s 1 are each amended to read as follows:

(1) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

(a) Not burn wood in any solid fuel burning device whenever the department has determined under RCW 70.94.715 that any air pollution episode exists in that area;

(b) Not burn wood in any solid fuel burning device except those which are either Oregon department of environmental quality phase II or United States environmental protection agency certified or certified by the department under RCW 70.94.457(1) or a pellet stove either certified or issued an exemption by the United States environmental protection agency in accordance with Title 40, Part 60 of the code of federal regulations, in the geographical area and for the period of time that a first stage of impaired air quality has been determined, by the department or any authority, for that area.

(i) A first stage of impaired air quality is reached when forecasted meteorological conditions are predicted to cause fine particulate levels to exceed thirty-five micrograms per cubic meter, measured on a twenty-four hour average, within forty-eight hours, except for areas of fine particulate nonattainment or areas at risk for fine particulate nonattainment;

(ii) A first stage burn ban for impaired air quality may be called for a county containing fine particulate nonattainment areas or areas at risk for fine particulate nonattainment, and when feasible only for the necessary portions of the county, when forecasted meteorological conditions are predicted to cause fine particulate levels to reach or exceed thirty micrograms per cubic meter, measured on a twenty-four hour average, within seventy-two hours; and

(c)(i) Not burn wood in any solid fuel burning device in a geographical area and for the period of time that a second stage of impaired air quality has been determined by the department or any authority, for that area. A second stage of impaired air quality is reached when a first stage of impaired air quality has been in force and has not been sufficient to reduce the increasing fine particulate pollution trend, fine particulates are at an ambient level of twenty-five micrograms per cubic meter measured on a twenty-four hour average, and forecasted meteorological conditions are not expected to allow levels of fine particulates to decline below twenty-five micrograms per cubic meter for a period of twenty-four hours or more from the time that the fine particulates are measured at the trigger level.

(ii) A second stage burn ban may be called without calling a first stage burn ban only when all of the following occur and shall require the department or the local air pollution control authority calling a second stage burn ban under this subsection to comply with the requirements of subsection ((~~(4)~~)) (3) of this section:

(A) Fine particulate levels have reached or exceeded twenty-five micrograms per cubic meter, measured on a twenty-four hour average;

(B) Meteorological conditions have caused fine particulate levels to rise rapidly;

(C) Meteorological conditions are predicted to cause fine particulate levels to exceed the thirty-five micrograms per cubic meter, measured on a twenty-four hour average, within twenty-four hours; and

(D) Meteorological conditions are highly likely to prevent sufficient dispersion of fine particulate.

(iii) In fine particulate nonattainment areas or areas at risk for fine particulate nonattainment, a second stage burn ban may be called for the county containing the nonattainment area or areas at risk for nonattainment, and when feasible only for the necessary portions of the county, without calling a first stage burn ban only when (c)(ii)(A), (B), and (D) of this subsection have been met and meteorological conditions are predicted to cause fine particulate levels to reach or exceed thirty micrograms per cubic meter, measured on a twenty-four hour average, within twenty-four hours.

(2) Actions of the department and local air pollution control authorities under this section shall preempt actions of other state agencies and local governments for the purposes of controlling air pollution from solid fuel burning devices, except where authorized by chapter 199, Laws of 1991.

(3) The department or any local air pollution control authority that has called a second stage burn ban under the authority of subsection (1)(c)(ii) of this section shall, within ninety days, prepare a written report describing:

(a) The meteorological conditions that resulted in their calling the second stage burn ban;

(b) Whether the agency could have taken actions to avoid calling a second stage burn ban without calling a first stage burn ban; and

(c) Any changes the department or authority is making to its procedures of calling first stage and second stage burn bans to avoid calling a second stage burn ban without first calling a first stage burn ban.

After consulting with affected parties, the department shall prescribe the format of such a report and may also require additional information be included in the report. All reports shall be sent to the department and the department shall keep the reports on file for not less than five years and available for public inspection and copying in accordance with RCW 42.56.090.

(4) ((~~The department and local air pollution control authorities shall evaluate the effectiveness of the burn ban programs contained in this section in avoiding fine particulate levels to exceed thirty-five micrograms per cubic meter, measured on a twenty-four hour average, and provide a joint report of the results to the legislature by September 1, 2011.~~)) For the purposes of this act, an area at risk for nonattainment means an area where the three-year average of the annual ninety-eighth percentile of twenty-four hour fine particulate values is

greater than twenty-nine micrograms per cubic meter, based on the years 2008 through 2010 monitoring data.

Sec. 2. RCW 70.94.477 and 2009 c 282 s 1 are each amended to read as follows:

(1) Unless allowed by rule under chapter 34.05 RCW, a person shall not cause or allow any of the following materials to be burned in any residential solid fuel burning device:

(a) Garbage;

(b) Treated wood;

(c) Plastics;

(d) Rubber products;

(e) Animals;

(f) Asphaltic products;

(g) Waste petroleum products;

(h) Paints; or

(i) Any substance, other than properly seasoned fuel wood, which normally emits dense smoke or obnoxious odors.

(2) To achieve and maintain attainment in areas of nonattainment for fine particulates in accordance with section 172 of the federal clean air act, a local air pollution control authority or the department may, after meeting requirements in subsection (3) of this section, prohibit the use of solid fuel burning devices, except:

(a) Fireplaces as defined in RCW 70.94.453(3), except if needed to meet federal requirements as a contingency measure in a state implementation plan for a fine particulate nonattainment area;

(b) Woodstoves meeting the standards set forth in RCW 70.94.473(1)(b); or

(c) Pellet stoves.

(3) Prior to prohibiting the use of solid fuel burning devices under subsection (2) of this section, the department or the local air pollution control authority must:

(a) Seek input from any city, county, or jurisdictional health department affected by the proposal to prohibit the use of solid fuel burning devices; and

(b) Make written findings that:

(i) The area is designated as an area of nonattainment for fine particulate matter by the United States environmental protection agency, or is in maintenance status under that designation;

(ii) Emissions from solid fuel burning devices in the area are a major contributing factor for violating the national ambient air quality standard for fine particulates; and

(iii) The area has an adequately funded program to assist low-income households to secure an adequate source of heat, which may include woodstoves meeting the requirements of RCW 70.94.453(2).

(4) If and only if the nonattainment area is within the jurisdiction of the department and the legislative authority of a city or county within the area of nonattainment formally expresses concerns with the department's written findings, then the department must publish on the department's web site the reasons for prohibiting the use of solid fuel burning devices under subsection (2) of this section that includes a response to the concerns expressed by the city or county legislative authority.

(5) When a local air pollution control authority or the department prohibits the use of solid fuel burning devices as authorized by this section, the cities, counties, and jurisdictional health departments serving the area shall cooperate with the department or local air pollution control authority as the department or the local air pollution control authority implements the prohibition. ((~~However, cooperation shall not include enforcement of this prohibition.~~)) The responsibility for actual enforcement of the prohibition shall reside solely with the department or the local air pollution control authority. A city, county, or jurisdictional health department serving a fine particulate nonattainment area may agree to assist with enforcement activities.

(6) A prohibition issued by a local air pollution control authority or the department under this section shall not apply to ((~~a person in a residence or commercial establishment that does not have an adequate source of heat without burning wood~~)):

(a) A person in a residence or commercial establishment that does not have an adequate source of heat without burning wood; or

(b) A person with a shop or garage that is detached from the main residence or commercial establishment that does not have an adequate source of heat in the detached shop or garage without burning wood.

(7) On the effective date of this section, and prior to January 1, 2015, the local air pollution control authority or the department shall, within available resources, provide assistance to households using solid fuel burning devices to reduce the emissions from those devices or change out to a lower emission device. Prior to the effective date of a prohibition, as defined in this section, on the use of uncertified stoves, the department or local air pollution control authority shall provide public education in the nonattainment area regarding how households can reduce their emissions through cleaner burning practices, the importance of respecting burn bans, and the opportunities for assistance in obtaining a cleaner device. If the area is designated as a nonattainment area as of January 1, 2015, or if required by the United States environmental protection agency, the local air pollution control authority or the department may prohibit the use of uncertified devices.

(8) As used in this section((~~,~~)):

(a) "Jurisdictional health department" means a city, county, city-county, or district public health department.

(b) "Prohibit the use" or "prohibition" may include requiring disclosure of an uncertified device, removal, or rendering inoperable, as may be approved by rule by a local air pollution control authority or the department. The effective date of such a rule may not be prior to January 1, 2015. However, except as provided in RCW 64.06.020 relating to the seller disclosure of wood burning appliances, any such prohibition may not include imposing separate time of sale obligations on the seller or buyer of real estate as part of a real estate transaction.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.94 RCW to read as follows:

(1) The department of ecology and local air pollution control authorities shall report back to the appropriate standing committees of the legislature by December 31, 2014, and every two years thereafter, on progress toward achieving attainment for areas of nonattainment that the revised burn ban and prohibition requirements contained in RCW 70.94.473 and 70.94.477 were

enacted to address, as well as whether other implementation tools are necessary to achieve attainment.

(2) This section expires January 1, 2019.

Passed by the House March 5, 2012.
Passed by the Senate March 2, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 220

[House Bill 2346]

CORRECTIONAL OFFICERS—PURCHASE OF UNIFORMS

AN ACT Relating to removing the requirement that correctional officers of the department of corrections purchase uniforms from correctional industries; reenacting and amending RCW 43.19.534 and 72.09.100; and creating a new section.

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

Sec. 1. RCW 43.19.534 and 2011 1st sp.s. c 43 s 227 and 2011 c 367 s 707 are each reenacted and amended to read as follows:

(1) State agencies, the legislature, and departments shall purchase for their use all goods and services required by the legislature, agencies, or departments that are produced or provided in whole or in part from class II inmate work programs operated by the department of corrections through state contract. These goods and services shall not be purchased from any other source unless, upon application by the department or agency: (a) The department finds that the articles or products do not meet the reasonable requirements of the agency or department, (b) are not of equal or better quality, or (c) the price of the product or service is higher than that produced by the private sector. However, the criteria contained in (a), (b), and (c) of this subsection for purchasing goods and services from sources other than correctional industries do not apply to goods and services produced by correctional industries that primarily replace goods manufactured or services obtained from outside the state. The department of corrections and department shall adopt administrative rules that implement this section.

(2) During the 2009-2011 and 2011-2013 fiscal biennia, and in conformance with section 223(11), chapter 470, Laws of 2009 and section 221(2), chapter 367, Laws of 2011, this section does not apply to the purchase of uniforms by the Washington state ferries.

(3) Effective July 1, 2012, this section does not apply to the purchase of uniforms for correctional officers employed with the Washington state department of corrections.

Sec. 2. RCW 72.09.100 and 2011 1st sp.s. c 21 s 37 and 2011 c 100 s 1 are each reenacted and amended to read as follows:

It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and other restrictions which have limited work programs in the past. It is also the intent of the legislature to ensure that the department, in developing and selecting correctional industries work programs, does not encourage the development of, or provide for selection of or contracting for, or the significant

expansion of, any new or existing class I correctional industries work programs that unfairly compete with Washington businesses. The legislature intends that the requirements relating to fair competition in the correctional industries work programs be liberally construed by the department to protect Washington businesses from unfair competition. For purposes of establishing such a comprehensive program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) CLASS I: FREE VENTURE INDUSTRIES.

(a) The employer model industries in this class shall be operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

(b) The customer model industries in this class shall be operated and managed by the department to provide Washington state manufacturers or businesses with products or services currently produced or provided by out-of-state or foreign suppliers.

(c) The department shall review these proposed industries, including any potential new class I industries work program or the significant expansion of an existing class I industries work program, before the department contracts to provide such products or services. The review shall include the analysis required under RCW 72.09.115 to determine if the proposed correctional industries work program will compete with any Washington business. An agreement for a new class I correctional industries work program, or an agreement for a significant expansion of an existing class I correctional industries work program, that unfairly competes with any Washington business is prohibited.

(d) The department shall supply appropriate security and custody services without charge to the participating firms.

(e) Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located, as determined by the director of correctional industries. If the director cannot reasonably determine the comparable wage, then the pay shall not be less than the federal minimum wage.

(f) An inmate who is employed in the class I program of correctional industries shall not be eligible for unemployment compensation benefits pursuant to any of the provisions of Title 50 RCW until released on parole or discharged.

(2) CLASS II: TAX REDUCTION INDUSTRIES.

(a) Industries in this class shall be state-owned and operated enterprises designed primarily to reduce the costs for goods and services for tax-supported agencies and for nonprofit organizations.

(b)(i) The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit.

(ii) Except as provided in RCW 43.19.534(3) and this section, the products and services of this industry, including purchased products and services necessary for a complete product line, may be sold to the following:

(A) Public agencies;

(B) Nonprofit organizations;

(C) Private contractors when the goods purchased will be ultimately used by a public agency or a nonprofit organization;

(D) An employee and immediate family members of an employee of the department;

(E) A person under the supervision of the department and his or her immediate family members; and

(F) A licensed health professional for the sole purpose of providing eyeglasses to enrollees of the state medical program at no more than the health professional's cost of acquisition.

(iii) The department shall authorize the type and quantity of items that may be purchased and sold under (b)(ii)(D) and (E) of this subsection.

(iv) It is prohibited to purchase any item purchased under (b)(ii)(D) and (E) of this subsection for the purpose of resale.

(v) Clothing manufactured by an industry in this class may be donated to nonprofit organizations that provide clothing free of charge to low-income persons.

(c) Under no circumstance shall offenders under the custody of the department of corrections make or assemble uniforms to be worn by correctional officers employed with the department.

(d)(i) Class II correctional industries products and services shall be reviewed by the department before offering such products and services for sale to private contractors.

(ii) The secretary shall conduct a yearly marketing review of the products and services offered under this subsection. Such review shall include an analysis of the potential impact of the proposed products and services on the Washington state business community. To avoid waste or spoilage and consequent loss to the state, when there is no public sector market for such goods, by-products and surpluses of timber, agricultural, and animal husbandry enterprises may be sold to private persons, at private sale. Surplus by-products and surpluses of timber, agricultural and animal husbandry enterprises that cannot be sold to public agencies or to private persons may be donated to nonprofit organizations. All sales of surplus products shall be carried out in accordance with rules prescribed by the secretary.

((~~(d)~~)) (e) Security and custody services shall be provided without charge by the department.

((~~(e)~~)) (f) Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located and which is approved by the director of correctional industries.

((~~(f)~~)) (g) Provisions of RCW 41.06.142 shall not apply to contracts with Washington state businesses entered into by the department through class II industries.

(3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

(a) Industries in this class shall be operated by the department. They shall be designed and managed to accomplish the following objectives:

(i) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within correctional industries and the free community. It is not intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(ii) Whenever possible, to provide forty hours of work or work training per week.

(iii) Whenever possible, to offset tax and other public support costs.

(b) Class III correctional industries shall be reviewed by the department to set policy for work crews. The department shall prepare quarterly detail statements showing where work crews worked, what correctional industry class, and the hours worked.

(c) Supervising, management, and custody staff shall be employees of the department.

(d) All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

(e) Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) CLASS IV: COMMUNITY WORK INDUSTRIES.

(a) Industries in this class shall be operated by the department. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations.

(b) Class IV correctional industries shall be reviewed by the department to set policy for work crews. The department shall prepare quarterly detail statements showing where work crews worked, what correctional industry class, and the hours worked. Class IV correctional industries operated in work camps established pursuant to RCW 72.64.050 are exempt from the requirements of this subsection (4)(b).

(c) Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

(d) The department shall reimburse participating units of local government for liability and workers compensation insurance costs.

(e) Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located.

(5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

(a) Programs in this class shall be subject to supervision by the department. The purpose of this class of industries is to enable an inmate, placed on community supervision, to work off all or part of a community restitution order as ordered by the sentencing court.

(b) Employment shall be in a community restitution program operated by the state, local units of government, or a nonprofit agency.

(c) To the extent that funds are specifically made available for such purposes, the department shall reimburse nonprofit agencies for workers compensation insurance costs.

NEW SECTION. **Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2012, in the omnibus appropriations act, this act is null and void.

Passed by the House March 3, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 221

[House Bill 2356]

AGRICULTURAL FAIRS—HEALTH AND SAFETY IMPROVEMENTS—CAPITAL FUNDING

AN ACT Relating to state capital funding of health and safety improvements at agricultural fairs; and amending RCW 15.76.100, 15.76.110, and 15.76.165.

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

Sec. 1. RCW 15.76.100 and 1961 c 61 s 1 are each amended to read as follows:

It is hereby declared that it is in the public interest to hold agricultural fairs, including the exhibition of livestock and agricultural produce of all kinds, as well as related arts and manufactures; including products of the farm home and educational contest, displays, and demonstrations designed to train youth and to promote the welfare of farm people and rural living. Fairs qualifying hereunder shall be eligible for allocations from the state fair fund and for capital funding when appropriated to the department of agriculture, as provided in this chapter.

Sec. 2. RCW 15.76.110 and 1961 c 61 s 2 are each amended to read as follows:

(1) "Agricultural fair" means a fair or exhibition which is intended to promote agriculture by including a balanced variety of exhibits of livestock and agricultural products, as well as related arts and manufactures; including products of the farm home, and educational contests, displays, and demonstrations designed to train youth and to promote the welfare of farm people and rural living.

(2) "Department" means the state department of agriculture.

(3) "Director" ((~~shall~~)) means the director of agriculture.

(4) "Commission" ((~~shall~~)) means the fairs commission created by this chapter.

(5) "State allocations" ((~~shall~~)) means allocations from the state fair fund.

Sec. 3. RCW 15.76.165 and 2005 c 443 s 2 are each amended to read as follows:

((~~Any county which owns or leases property from another governmental agency and provides such property for area or county and district agricultural fair purposes may apply to the director for special assistance in carrying out necessary capital improvements to such property and maintenance of the appurtenances thereto.~~)) (1) Subject to the availability of amounts appropriated

for this specific purpose, the department may provide capital funding to local governments and nonprofit organizations, on a competitive basis, to support capital projects that make health or safety improvements to agricultural fair grounds or fair facilities in order to benefit participants and the fair-going public.

(2) The department shall develop and manage appropriate contracts with the selected applicants, monitor project expenditures and grantee performance, report project and contract information, and exercise due diligence and other contract management responsibilities.

(a) The department shall include provisions in the contracts which 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 must be used for the express purpose of the grant.

(b) 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.

Passed by the House February 9, 2012.
Passed by the Senate February 24, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 222

[Engrossed Substitute House Bill 2361]

PUBLIC RECORDS—EXEMPTIONS—USAGE-BASED AUTOMOBILE INSURANCE

AN ACT Relating to usage-based automobile insurance and exempting certain usage-based insurance information from public inspection; amending RCW 48.19.040 and 42.56.400; and adding a new section to chapter 48.18 RCW.

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

Sec. 1. RCW 48.19.040 and 1994 c 131 s 8 are each amended to read as follows:

(1) Every insurer or rating organization shall, before using, file with the commissioner every classifications manual, manual of rules and rates, rating plan, rating schedule, minimum rate, class rate, and rating rule, and every modification of any of the foregoing which it proposes. The insurer need not so file any rate on individually rated risks as described in subdivision (1) of RCW 48.19.030; except that any such specific rate made by a rating organization shall be filed.

(2) Every such filing shall indicate the type and extent of the coverage contemplated and must be accompanied by sufficient information to permit the commissioner to determine whether it meets the requirements of this chapter. An insurer or rating organization shall offer in support of any filing:

(a) The experience or judgment of the insurer or rating organization making the filing;

(b) An exhibit detailing the major elements of operating expense for the types of insurance affected by the filing;

(c) An explanation of how investment income has been taken into account in the proposed rates; and

(d) Any other information which the insurer or rating organization deems relevant.

(3) If an insurer has insufficient loss experience to support its proposed rates, it may submit loss experience for similar exposures of other insurers or of a rating organization.

(4) Every such filing shall state its proposed effective date.

(5)(a) A filing made pursuant to this chapter shall be exempt from the provisions of RCW 48.02.120(3). However, the filing and all supporting information accompanying it shall be open to public inspection only after the filing becomes effective, except as provided in (b) of this subsection.

(b) For the purpose of this section, "usage-based insurance" means private passenger automobile coverage that uses data gathered from any recording device as defined in RCW 46.35.010, or a system, or business method that records and preserves data arising from the actual usage of a motor vehicle to determine rates or premiums. Information in a filing of usage-based insurance about the usage-based component of the rate is confidential and must be withheld from public inspection.

(6) Where a filing is required no insurer shall make or issue an insurance contract or policy except in accordance with its filing then in effect, except as is provided by RCW 48.19.090.

Sec. 2. RCW 42.56.400 and 2011 c 188 s 21 are each amended to read as follows:

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

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

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

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

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

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

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

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

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

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

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151; ((~~and~~))

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010; and

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b).

NEW SECTION. **Sec. 3.** A new section is added to chapter 48.18 RCW to read as follows:

(1) For the purposes of this section, "usage-based insurance" has the same meaning as defined in RCW 48.19.040.

(2) Location data may not be collected without:

(a) Disclosure to the insured that such information is being collected as required by RCW 46.35.020; and

(b) The insured's consent.

(3) Individually identifiable usage information retrieved from a recording device may only be used and/or retained:

(a) For purposes of determining premiums; or

(b) As allowed by law in RCW 46.35.030.

(4) Individually identifiable usage information retrieved from a recording device may not be disclosed to any third party except as allowed by RCW 46.35.030.

Passed by the House February 10, 2012.
Passed by the Senate March 5, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 223

[Engrossed Substitute House Bill 2363]

DOMESTIC VIOLENCE AND HARASSMENT—VICTIMS

AN ACT Relating to protecting victims of domestic violence and harassment; amending RCW 9A.46.040, 9A.46.080, 10.99.040, 26.09.013, 43.235.040, and 43.235.050; adding a new section to chapter 10.14 RCW; adding a new section to chapter 26.12 RCW; adding new sections to chapter 26.50 RCW; creating a new section; and prescribing penalties.

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

Sec. 1. RCW 9A.46.040 and 2011 c 307 s 4 are each amended to read as follows:

(1) Because of the likelihood of repeated harassment directed at those who have been victims of harassment in the past, when any defendant charged with a crime involving harassment is released from custody before trial on bail or personal recognizance, the court authorizing the release may require that the defendant:

(a) Stay away from the home, school, business, or place of employment of the victim or victims of the alleged offense or other location, as shall be specifically named by the court in the order;

(b) Refrain from contacting, intimidating, threatening, or otherwise interfering with the victim or victims of the alleged offense and such other persons, including but not limited to members of the family or household of the victim, as shall be specifically named by the court in the order.

(2) ((~~An intentional~~)) Willful violation of a court order issued under this section or an equivalent local ordinance is a gross misdemeanor. The written order releasing the defendant shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 9A.46 RCW. A certified copy of the order shall be provided to the victim by the clerk of the court.

Sec. 2. RCW 9A.46.080 and 2011 c 307 s 5 are each amended to read as follows:

The victim shall be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim is involved. If a defendant is found guilty of a crime of harassment and a condition of the sentence restricts the defendant's ability to have contact with the victim or witnesses, the condition shall be recorded and a written certified copy of that

order shall be provided to the victim or witnesses by the clerk of the court. Willful violation of a court order issued under this section or an equivalent local ordinance is a gross misdemeanor. The written order shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 9A.46 RCW and will subject a violator to arrest.

Sec. 3. RCW 10.99.040 and 2010 c 274 s 309 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2)(a) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(b) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(c) The no-contact order shall also be issued in writing as soon as possible, and shall state that it may be extended as provided in subsection (3) of this section. By January 1, 2011, the administrative office of the courts shall develop a pattern form for all no-contact orders issued under this chapter. A no-contact order issued under this chapter must substantially comply with the pattern form developed by the administrative office of the courts.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. So long as the court finds probable cause, the court may issue or extend a no-contact order even if the defendant fails to appear at arraignment. The no-contact order shall terminate if the defendant is acquitted or the charges are dismissed. If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon

conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under subsection (2) ((~~or~~)), (3), or (7) of this section is punishable under RCW 26.50.110.

(b) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A certified copy of the order shall be provided to the victim.

(5) If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. ((~~Such orders need not be entered into the computer-based criminal intelligence information system in this state which is used by law enforcement agencies to list outstanding warrants.~~))

(6) Whenever a no-contact order is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (3) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

(7) All courts shall develop policies and procedures by January 1, 2011, to grant victims a process to modify or rescind a no-contact order issued under this chapter. The administrative office of the courts shall develop a model policy to assist the courts in implementing the requirements of this subsection.

NEW SECTION. **Sec. 4.** A new section is added to chapter 10.14 RCW to read as follows:

(1) A defendant arrested for violating any civil antiharassment protection order issued pursuant to this chapter is required to appear in person before a magistrate within one judicial day after the arrest. At the time of the appearance, the court shall determine the necessity of imposing a no-contact order or other conditions of pretrial release in accordance with RCW 9A.46.050.

(2) A defendant who is charged by citation, complaint, or information with violating any civil antiharassment protection order issued pursuant to this chapter and not arrested shall appear in court for arraignment in accordance with RCW 9A.46.050.

(3) Appearances required pursuant to this section are mandatory and cannot be waived.

Sec. 5. RCW 26.09.013 and 2007 c 496 s 401 are each amended to read as follows:

In order to provide judicial officers with better information and to facilitate decision making which allows for the protection of children from physical, mental, or emotional harm and in order to facilitate consistent healthy contact between both parents and their children:

(1) Parties and witnesses who require the assistance of interpreters shall be provided access to qualified interpreters pursuant to chapter 2.42 or 2.43 RCW. To the extent practicable and within available resources, interpreters shall also be made available at dissolution-related proceedings.

(2) Parties and witnesses who require literacy assistance shall be referred to the multipurpose service centers established in chapter 28B.04 RCW.

(3) In matters involving guardians ad litem((~~s~~)), the court shall specify the hourly rate the guardian ad litem may charge for his or her services, and shall specify the maximum amount the guardian ad litem may charge without additional review. Counties may, and to the extent state funding is provided therefor counties shall, provide indigent parties with guardian ad litem services at a reduced or waived fee.

(4) Parties may request to participate by telephone or interactive videoconference. The court may allow telephonic or interactive videoconference participation of one or more parties at any proceeding in its discretion. The court may also allow telephonic or interactive videoconference participation of witnesses.

(5) In cases involving domestic violence or child abuse, if residential time is ordered, the court may:

(a) Order exchange of a child to occur in a protected setting;

(b) Order residential time supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the supervisor is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor if the court determines, after a hearing, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child. If the court allows a family or household member to supervise residential time, the court shall establish conditions to be followed during residential time.

(6)(a) In cases in which the court has made a finding of domestic violence or child abuse, the court may not require a victim of domestic violence or the custodial parent of a victim of child abuse to disclose to the other party information that would reasonably be expected to enable the perpetrator of domestic violence or child abuse to obtain previously undisclosed information regarding the name, location, or address of a victim's residence, employer, or school at an initial hearing, and shall carefully weigh the safety interests of the victim before issuing orders which would require disclosure in a future hearing.

(b) In cases in which domestic violence or child abuse has been alleged but the court has not yet made a finding regarding such allegations, the court shall provide the party alleging domestic violence or child abuse with the opportunity to prove the allegations before ordering the disclosure of information that would reasonably be expected to enable the alleged perpetrator of domestic violence or

child abuse to obtain previously undisclosed information regarding the name, location, or address of a victim's residence, employer, or school.

(7) In cases in which the court finds that the parties do not have a satisfactory history of cooperation or there is a high level of parental conflict, the court may order the parties to use supervised visitation and safe exchange centers or alternative safe locations to facilitate the exercise of residential time.

Sec. 6. RCW 43.235.040 and 2000 c 50 s 4 are each amended to read as follows:

(1) An oral or written communication or a document shared within or produced by a ((~~regional~~)) domestic violence fatality review panel related to a domestic violence fatality review is confidential and not subject to disclosure or discoverable by a third party. An oral or written communication or a document provided by a third party to a ((~~regional~~)) domestic violence fatality review panel, or between a third party and a ((~~regional~~)) domestic violence fatality review panel is confidential and not subject to disclosure or discovery by a third party. Notwithstanding the foregoing, recommendations from the ((~~regional~~)) domestic violence fatality review panel and the coordinating entity generally may be disclosed minus personal identifiers.

(2) The ((~~regional~~)) review panels, only to the extent otherwise permitted by law or court rule, shall have access to information and records regarding the domestic violence victims and perpetrators under review held by domestic violence perpetrators' treatment providers; dental care providers; hospitals, medical providers, and pathologists; coroners and medical examiners; mental health providers; lawyers; the state and local governments; the courts; and employers. The coordinating entity and the ((~~regional~~)) review panels shall maintain the confidentiality of such information to the extent required by any applicable law.

(3) The ((~~regional~~)) review panels shall review, only to the extent otherwise permitted by law or court rule when determined to be relevant and necessary to an investigation, guardian ad litem reports, parenting evaluations, and victim impact statements; probation information; mental health evaluations done for court; presentence interviews and reports, and any recommendations made regarding bail and release on own recognizance; child protection services, welfare, and other information held by the department; any law enforcement incident documentation, such as incident reports, dispatch records, victim, witness, and suspect statements, and any supplemental reports, probable cause statements, and 911 call taker's reports; corrections and postsentence supervision reports; and any other information determined to be relevant to the review. The coordinating entity and the ((~~regional~~)) review panels shall maintain the confidentiality of such information to the extent required by any applicable law.

Sec. 7. RCW 43.235.050 and 2000 c 50 s 5 are each amended to read as follows:

If acting in good faith, without malice, and within the parameters of this chapter and the protocols established, representatives of the coordinating entity and the statewide and regional domestic violence fatality review panels are immune from civil liability for an activity related to reviews of particular fatalities.

NEW SECTION. **Sec. 8.** A new section is added to chapter 26.12 RCW to read as follows:

The court shall act in accordance with the requirements of the address confidentiality program pursuant to chapter 40.24 RCW in the course of all proceedings under this title. A court order for information protected by the address confidentiality program may only be issued upon completing the requirements of RCW 40.24.075.

NEW SECTION. **Sec. 9.** A new section is added to chapter 26.50 RCW to read as follows:

(1)(a) No court or administrative body may compel any person or domestic violence program as defined in RCW 70.123.020 to disclose the name, address, or location of any domestic violence program, including a shelter or transitional housing facility location, in any civil or criminal case or in any administrative proceeding unless the court finds by clear and convincing evidence that disclosure is necessary for the implementation of justice after consideration of safety and confidentiality concerns of the parties and other residents of the domestic violence program, and other alternatives to disclosure that would protect the interests of the parties.

(b) The court's findings shall be made following a hearing in which the domestic violence program has been provided notice of the request for disclosure and an opportunity to respond.

(2) In any proceeding where the confidential name, address, or location of a domestic violence program is ordered to be disclosed, the court shall order that the parties be prohibited from further dissemination of the confidential information, and that any portion of any records containing such confidential information be sealed.

(3) Any person who obtains access to and intentionally and maliciously releases confidential information about the location of a domestic violence program for any purpose other than required by a court proceeding is guilty of a gross misdemeanor.

NEW SECTION. **Sec. 10.** A new section is added to chapter 26.50 RCW to read as follows:

(1) The Washington state institute for public policy shall conduct a statewide study to assess recidivism by domestic violence offenders involved in the criminal justice system, examine effective community supervision practices of domestic violence offenders as it relates to Washington state institute for public policy findings on evidence-based community supervision, and assess domestic violence perpetrator treatment. The institute shall report recidivism rates of domestic violence offenders in Washington, and if data is available, the report must also include an estimate of the number of domestic violence offenders sentenced to certified domestic violence perpetrator treatment in Washington state and completion rates for those entering treatment.

(2) The study must be done in collaboration with the Washington state gender and justice commission and experts on domestic violence and must include a review and update of the literature on domestic violence perpetrator treatment, and provide a description of studies used in meta-analysis of domestic violence perpetrator treatment. The institute shall report on other treatments and programs, including related findings on evidence-based community supervision,

that are effective at reducing recidivism among the general offender population. The institute shall survey other states to study how misdemeanor and felony domestic violence cases are handled and assess whether domestic violence perpetrator treatment is required by law and whether a treatment modality is codified in law. The institute shall complete the review and report results to the legislature by January 1, 2013.

NEW SECTION. **Sec. 11.** If specific funding for the purposes of section 10 of this act, referencing section 10 of this act by bill or chapter number and section number, is not provided by June 30, 2012, in the omnibus appropriations act, section 10 of this act is null and void.

Passed by the House March 3, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 224

[Second Substitute House Bill 2452]

STATE PROCUREMENT OF GOODS AND SERVICES

AN ACT Relating to centralizing the authority and responsibility for the development, process, and oversight of state procurement of goods and services; amending RCW 43.19.005, 43.19.725, and 43.19.727; adding a new chapter to Title 39 RCW; recodifying RCW 43.19.1932, 43.19.530, 43.19.534, 43.19.535, 43.19.536, 43.19.538, 43.19.539, 43.19.700, 43.19.702, 43.19.704, 43.19.797, and 39.29.052; repealing RCW 39.29.003, 39.29.006, 39.29.008, 39.29.009, 39.29.011, 39.29.016, 39.29.018, 39.29.020, 39.29.025, 39.29.040, 39.29.050, 39.29.055, 39.29.065, 39.29.068, 39.29.075, 39.29.080, 39.29.090, 39.29.100, 39.29.110, 39.29.120, 39.29.130, 39.29.900, 43.19.180, 43.19.185, 43.19.190, 43.19.1901, 43.19.1905, 43.19.19052, 43.19.1906, 43.19.1908, 43.19.1911, 43.19.1913, 43.19.1914, 43.19.1915, 43.19.1937, 43.19.1939, and 43.19.200; and providing an effective date.

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

NEW SECTION. **Sec. 1.** INTENT. It is the intent of this chapter to promote open competition and transparency for all contracts for goods and services entered into by state agencies, unless specifically exempted under this chapter. It is further the intent of this chapter to centralize within one agency the authority and responsibility for the development and oversight of policies related to state procurement and contracting. To ensure the highest ethical standards, proper accounting for contract expenditures, and for ease of public review, it is further the intent to centralize the location of information about state procurements and contracts. It is also the intent of the legislature to provide state agency contract data to the public in a searchable manner.

In addition, the legislature intends that the state develop procurement policies, procedures, and materials that encourage and facilitate state agency purchase of goods and services from Washington small businesses.

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

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education as defined in RCW 28B.10.016, and correctional and other types of institutions.

(2) "Bid" means an offer, proposal, or quote for goods or services in response to a solicitation issued for such goods or services by the department or an agency of Washington state government.

(3) "Bidder" means an individual or entity who submits a bid, quotation, or proposal in response to a solicitation issued for such goods or services by the department or an agency of Washington state government.

(4) "Businesses owned and operated by persons with disabilities" means any for-profit business certified under chapter 39.19 RCW as being owned and controlled by persons who have been either:

(a) Determined by the department of social and health services to have a developmental disability, as defined in RCW 71A.10.020;

(b) Determined by an agency established under Title I of the federal vocational rehabilitation act to be or have been eligible for vocational rehabilitation services;

(c) Determined by the federal social security administration to be or have been eligible for either social security disability insurance or supplemental security income; or

(d) Determined by the United States department of veterans affairs to be or have been eligible for vocational rehabilitation services due to service-connected disabilities, under 38 U.S.C. Sec. 3100 et seq.

(5) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(6) "Community rehabilitation program of the department of social and health services" means any entity that:

(a) Is registered as a nonprofit corporation with the secretary of state; and

(b) Is recognized by the department of social and health services, division of vocational rehabilitation as eligible to do business as a community rehabilitation program.

(7) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to bidders and culminating in a selection based on predetermined criteria.

(8) "Contractor" means an individual or entity awarded a contract with an agency to perform a service or provide goods.

(9) "Debar" means to prohibit a contractor, individual, or other entity from submitting a bid, having a bid considered, or entering into a state contract during a specified period of time as set forth in a debarment order.

(10) "Department" means the department of enterprise services.

(11) "Director" means the director of the department of enterprise services.

(12) "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.

(13) "Goods" means products, materials, supplies, or equipment provided by a contractor.

(14) "In-state business" means a business that has its principal office located in Washington.

(15) "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.

(16) "Master contracts" means a contract for specific goods or services, or both, that is solicited and established by the department in accordance with procurement laws and rules on behalf of and for general use by agencies as specified by the department.

(17) "Purchase" means the acquisition of goods or services, including the leasing or renting of goods.

(18) "Services" means labor, work, analysis, or similar activities provided by a contractor to accomplish a specific scope of work.

(19) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that:

(a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either:

(i) Fifty or fewer employees; or

(ii) A gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or

(b) Is certified with the office of women and minority business enterprises under chapter 39.19 RCW.

(20) "Microbusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than one million dollars annually as reported on its federal tax return or on its return filed with the department of revenue.

(21) "Minibusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than three million dollars, but one million dollars or more annually as reported on its federal tax return or on its return filed with the department of revenue.

(22) "Sole source" means a contractor providing goods or services of such a unique nature or sole availability at the location required that the contractor is clearly and justifiably the only practicable source to provide the goods or services.

(23) "Washington grown" has the definition in RCW 15.64.060.

NEW SECTION. **Sec. 3.** ETHICS IN PUBLIC CONTRACTING. (1)(a) A state officer or employee of an agency who seeks to acquire goods or services or who participates in those contractual matters is subject to the requirements in RCW 42.52.150.

(b) A contractor who contracts with an agency to perform services related to the acquisition of goods and services for or on behalf of the state is subject to the requirements in RCW 42.52.150.

(2) No person or entity who seeks or may seek a contract with a state agency may give, loan, transfer, or deliver to any person something of economic value for which receipt of such item would cause a state officer or employee to be in a violation of RCW 42.52.040, 42.52.110, 42.52.120, 42.52.140, or 42.52.150.

NEW SECTION. **Sec. 4.** RELEASE OF BID DOCUMENTS. (1) Records related to state procurements are public records subject to disclosure to the extent provided in chapter 42.56 RCW except as provided in subsection (2) of this section.

(2) Bid submissions and bid evaluations are exempt from disclosure until the agency announces the apparent successful bidder.

NEW SECTION. **Sec. 5.** PROHIBITION ON CERTAIN CONTRACTS. Agencies that are authorized or directed to establish a board, commission, council, committee, or other similar group made up of volunteers to advise the activities and management of the agency are prohibited from entering into contracts with any or all volunteer members as a means to reimburse or otherwise pay members of such board, commission, council, committee, or other similar group for the work performed as part of the entity, except where payment is specifically authorized by statute.

NEW SECTION. **Sec. 6.** PROVISION OF GOODS AND SERVICES. (1) In addition to the powers and duties provided in chapter 43.19 RCW, the department shall make available goods and services to support state agencies, and may enter into agreements with any other local or federal governmental agency or entity or a public benefit nonprofit organization, in compliance with RCW 39.34.055, and any tribes located in the state, to furnish such products and services as deemed appropriate by both parties.

(2) The department shall ensure full cost recovery from state agencies, other local or federal governmental agency or entity, public benefit nonprofit organizations, or any tribes located in the state, for activities performed pursuant to subsection (1) of this section. Cost recovery must ensure that the department is reimbursed its full cost for providing the goods and services furnished as determined by the department. Cost recovery may be collected through the state agency, other governmental entity, nonprofit organization, or through the contractor.

(3) All governmental entities of this state may enter into agreements under this section with the department, unless otherwise prohibited.

NEW SECTION. **Sec. 7.** COOPERATIVE PURCHASING AUTHORIZED. (1) On behalf of the state, the department may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any goods or services with one or more states, state agencies, local governments, local government agencies, federal agencies, or tribes located in the state, in accordance with an agreement entered into between the participants. The cooperative purchasing may include, but is not limited to, joint or multiparty contracts between the entities, and master contracts or convenience contracts that are made available to other public agencies.

(2) All cooperative purchasing conducted under this chapter must be through contracts awarded through a competitive solicitation process.

NEW SECTION. **Sec. 8.** CONVENIENCE CONTRACT. A convenience contract is a contract for specific goods or services, or both, that is solicited and established by the department in accordance with procurement laws and rules on behalf of and for use by a specific agency or group of agencies as needed from time to time. A convenience contract is not available for general use and may only be used as specified by the department.

NEW SECTION. **Sec. 9.** PROCUREMENT AGENCY. (1) The director is responsible for the development and oversight of policy for the procurement of goods and services by all state agencies under this chapter. When establishing policies, standards, and procedures, the director shall account for differentiation in procurement practices and needs among state agencies and strive to establish policies, standards, and procedures that promote greater efficiency in procurement.

(2) The director is authorized to adopt rules, policies, and guidelines governing the procurement, contracting, and contract management of any and all goods and services procured by state agencies under this chapter.

(3) The director or designee is the sole authority to enter into master contracts on behalf of the state.

NEW SECTION. **Sec. 10.** DIRECTOR'S DUTIES AND RESPONSIBILITIES REGARDING PROCUREMENT. The director shall:

(1) Establish overall state policies, standards, and procedures regarding the procurement of goods and services by all state agencies;

(2) Develop policies and standards for the use of credit cards or similar methods to make purchases;

(3) Establish procurement processes for information technology goods and services, using technology standards and policies established by the office of the chief information officer under chapter 43.41A RCW;

(4) Enter into contracts or delegate the authority to enter into contracts on behalf of the state to facilitate the purchase, lease, rent, or otherwise acquire all goods and services and equipment needed for the support, maintenance, and use of all state agencies, except as provided in section 11 of this act;

(5) Have authority to delegate to agencies authorization to purchase goods and services. The authorization must specify restrictions as to dollar amount or to specific types of goods and services, based on a risk assessment process developed by the department. Acceptance of the purchasing authorization by an agency does not relieve the agency from conformance with this chapter or from policies established by the director. Also, the director may not delegate to a state agency the authorization to purchase goods and services if the agency is not in substantial compliance with overall procurement policies as established by the director;

(6) Develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of goods and services from Washington small businesses, microbusinesses, and minibusinesses, and minority and women-owned businesses to the maximum extent practicable and consistent with international trade agreement commitments;

(7) Develop and implement an enterprise system for electronic procurement;

(8) Provide for a commodity classification system and provide for the adoption of goods and services commodity standards;

(9) Establish overall state policy for compliance by all agencies regarding:

(a) Food procurement procedures and materials that encourage and facilitate the purchase of Washington grown food by state agencies and institutions to the maximum extent practicable and consistent with international trade agreement commitments; and

(b) Policies requiring all food contracts to include a plan to maximize to the extent practicable and consistent with international trade agreement commitments the availability of Washington grown food purchased through the contract;

(10) Develop guidelines and criteria for the purchase of vehicles, high gas mileage vehicles, and alternate vehicle fuels and systems, equipment, and materials, that reduce overall energy-related costs and energy use by the state, including investigations into all opportunities to aggregate the purchasing of clean technologies by state and local governments, and including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002); and

(11) Develop and enact rules to implement the provisions of this chapter.

NEW SECTION. **Sec. 11.** EXEMPTIONS FROM CHAPTER. (1) The provisions of this chapter do not apply in any manner to the operation of the state legislature except as requested by the legislature.

(2) The provisions of this chapter do not apply to the contracting for services and activities that are necessary to establish, operate, or manage the state data center, including architecture, design, engineering, installation, and operation of the facility, that are approved by the technology services board or the acquisition of proprietary software and information technology services necessary for or part of the provision of services offered by the consolidated technology services agency.

(3) Primary authority for the purchase of specialized equipment, and instructional and research material, for their own use rests with the institutions of higher education as defined in RCW 28B.10.016.

(4) Universities operating hospitals with approval from the 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, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations if documented to be more cost-effective.

(5) Primary authority for the purchase of materials, supplies, and equipment, for resale to other than public agencies, rests with the state agency concerned.

(6) The authority for the purchase of insurance and bonds rests with the risk manager under RCW 43.19.769, except for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029.

(7) The authority to purchase interpreter services and interpreter brokerage services on behalf of limited-English speaking or sensory-impaired applicants and recipients of public assistance rests with the department of social and health services and the health care authority.

NEW SECTION. **Sec. 12.** TRAINING. (1) The department must provide expertise and training on best practices for state procurement.

(2) The department must establish either training or certification programs, or both, to ensure consistency in procurement practices for employees

authorized to perform procurement functions under the provisions of this chapter. When establishing training or certification programs, the department may approve existing training or certification programs at state agencies. When establishing programs or approving existing programs, the department shall work with agencies with existing training programs to ensure coordination and minimize additional costs associated with training requirements.

(3) Beginning July 1, 2013, state agencies must require agency employees responsible for developing, executing, or managing procurements or contracts, or both, to complete department-approved training or certification programs, or both. Beginning July 1, 2015, no agency employee may execute or manage contracts unless the employee has met the training or certification requirements or both as set by the department. Any request for exception to this requirement must be submitted to the director for approval before the employee or group of employees executes or manages contracts.

NEW SECTION. **Sec. 13.** COMPETITIVE SOLICITATION. (1) Insofar as practicable, all purchases of or contracts for goods and services must be based on a competitive solicitation process. This process may include electronic or web-based solicitations, bids, and signatures. This requirement also applies to procurement of goods and services executed by agencies under delegated authority granted in accordance with section 10 of this act or under RCW 28B.10.029.

(2) Subsection (1) of this section applies to contract amendments that substantially change the scope of work of the original contract or substantially increase the value of the original contract.

NEW SECTION. **Sec. 14.** COMPETITIVE SOLICITATION—EXCEPTIONS. All contracts must be entered into pursuant to competitive solicitation, except for:

(1) Emergency contracts;

(2) Sole source contracts that comply with the provisions of section 16 of this act;

(3) Direct buy purchases, as designated by the director. The director shall establish policies to define criteria for direct buy purchases. These criteria may be adjusted to accommodate special market conditions and to promote market diversity for the benefit of the citizens of the state of Washington;

(4) Purchases involving special facilities, services, or market conditions, in which instances of direct negotiation is in the best interest of the state;

(5) Purchases from master contracts established by the department or an agency authorized by the department;

(6) Client services contracts;

(7) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process when the director determines that a competitive solicitation process is not appropriate or cost-effective;

(8) Off-contract purchases of Washington grown food when such food is not available from Washington sources through an existing contract. However, Washington grown food purchased under this subsection must be of an equivalent or better quality than similar food available through the contract and must be able to be paid from the agency's existing budget. This requirement also applies to purchases and contracts for purchases executed by state agencies,

including institutions of higher education as defined in RCW 28B.10.016, under delegated authority granted in accordance with this chapter or under RCW 28B.10.029;

(9) Contracts awarded to companies that furnish a service where the tariff is established by the utilities and transportation commission or other public entity;

(10) Intergovernmental agreements awarded to any governmental entity, whether federal, state, or local and any department, division, or subdivision thereof;

(11) Contracts for services that are necessary to the conduct of collaborative research if the use of a specific contractor is mandated by the funding source as a condition of granting funds;

(12) Contracts for architectural and engineering services as defined in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

(13) Contracts for the employment of expert witnesses for the purposes of litigation; and

(14) Contracts for bank supervision authorized under RCW 30.38.040.

NEW SECTION. **Sec. 15.** EMERGENCY PURCHASES. (1) An agency may make emergency purchases as defined in subsection (3) of this section. When an emergency purchase is made, the agency head shall submit written notification of the purchase within three business days of the purchase to the director. This notification must contain a description of the purchase, a description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase.

(2) Emergency contracts must be submitted to the department and made available for public inspection within three working days following the commencement of work or execution of the contract, whichever occurs first.

(3) As used in this section, "emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate, and extreme threat to the proper performance of essential functions; or

(b) May reasonably be expected to result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken.

NEW SECTION. **Sec. 16.** SOLE SOURCE CONTRACTS. (1) Agencies must submit sole source contracts to the department and make the contracts available for public inspection not less than ten working days before the proposed starting date of the contract. Agencies must provide documented justification for sole source contracts to the department when the contract is submitted, and must include evidence that the agency posted the contract opportunity at a minimum on the state's enterprise vendor registration and bid notification system.

(2) The department must approve sole source contracts before any such contract becomes binding and before any services may be performed or goods provided under the contract. These requirements shall also apply to all sole source contracts except as otherwise exempted by the director.

(3) The director may provide an agency an exemption from the requirements of this section for a contract or contracts. Requests for exemptions must be submitted to the director in writing.

(4) Contracts awarded by institutions of higher education from nonstate funds are exempt from the requirements of this section.

NEW SECTION. **Sec. 17.** NOTIFICATIONS. (1) Agencies must provide public notice for all competitive solicitations. Agencies must post all contract opportunities on the state's enterprise vendor registration and bid notification system. In addition, agencies may notify contractors and potential bidders by sending notices by mail, electronic transmission, newspaper advertisements, or other means as may be appropriate.

(2) Agencies should try to anticipate changes in a requirement before the bid submittal date and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the agency, it is not possible to provide reasonable notice, the submittal date for receipt of bids may be postponed and all bidders notified.

NEW SECTION. **Sec. 18.** AWARD. (1)(a) After bids that are submitted in response to a competitive solicitation process are reviewed by the awarding agency, the awarding agency may:

(i) Reject all bids and rebid or cancel the competitive solicitation;

(ii) Request best and final offers from responsive and responsible bidders; or

(iii) Award the purchase or contract to the lowest responsive and responsible bidder.

(b) The agency may award one or more contracts from a competitive solicitation.

(2) In determining whether the bidder is a responsible bidder, the agency must consider the following elements:

(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; and

(f) Such other information as may be secured having a bearing on the decision to award the contract.

(3) In determining the lowest responsive and responsible bidder, an agency may consider best value criteria, including but not limited to:

(a) Whether the bid satisfies the needs of the state as specified in the solicitation documents;

(b) Whether the bid encourages diverse contractor participation;

(c) Whether the bid provides competitive pricing, economies, and efficiencies;

(d) Whether the bid considers human health and environmental impacts;

(e) Whether the bid appropriately weighs cost and noncost considerations; and

(f) Life-cycle cost.

(4) The solicitation document must clearly set forth the requirements and criteria that the agency will apply in evaluating bid submissions.

(5) The awarding agency may at its discretion reject the bid of any contractor who has failed to perform satisfactorily on a previous contract with the state.

(6) After reviewing all bid submissions, an agency may enter into negotiations with the lowest responsive and responsible bidder in order to determine if the bid may be improved. An agency may not use this negotiation opportunity to permit a bidder to change a nonresponsive bid into a responsive bid.

(7) The procuring agency must enter into the state's enterprise vendor and bid notification system the name of each bidder and an indication as to the successful bidder.

NEW SECTION. **Sec. 19.** COMPLAINT AND PROTEST PROCESS. (1) All agencies that have original or delegated procurement authority for goods or services must have a clear and transparent complaint process. The complaint process must provide for the complaint to be submitted and response provided before the deadline for bid submissions.

(2) All agencies that have original or delegated procurement authority for goods or services must have a clear and transparent protest process. The protest process must include a protest period after the apparent successful bidder is announced but before the contract is signed.

(3) The director may grant authority for an agency to sign a contract before the protest process is completed due to exigent circumstances.

NEW SECTION. **Sec. 20.** PROCUREMENT MANAGEMENT. (1) The department must adopt uniform policies and procedures for the effective and efficient management of contracts by all state agencies. The policies and procedures must, at a minimum, include:

(a) Precontract procedures for selecting potential contractors based on their qualifications and ability to perform;

(b) Model complaint and protest procedures;

(c) Alternative dispute resolution processes;

(d) Incorporation of performance measures and measurable benchmarks in contracts;

(e) Model contract terms to ensure contract performance and compliance with state and federal standards;

(f) Executing contracts using electronic signatures;

(g) Criteria for contract amendments;

(h) Postcontract procedures;

(i) Procedures and criteria for terminating contracts for cause or otherwise; and

(j) Any other subject related to effective and efficient contract management.

(2) An agency may not enter into a contract under which the contractor could charge additional costs to the agency, the department, the joint legislative audit and review committee, or the state auditor for access to data generated under the contract. A contractor under such a contract must provide access to data generated under the contract to the contracting agency, the joint legislative audit and review committee, and the state auditor.

(3) To the extent practicable, agencies should enter into performance-based contracts. Performance-based contracts identify expected deliverables and

performance measures or outcomes. Performance-based contracts also use appropriate techniques, which may include but are not limited to, either consequences or incentives or both to ensure that agreed upon value to the state is received. Payment for goods and services under performance-based contracts should be contingent on the contractor achieving performance outcomes.

(4) An agency and contractor may execute a contract using electronic signatures.

(5) As used in subsection (2) of this section, "data" includes all information that supports the findings, conclusions, and recommendations of the contractor's reports, including computer models and the methodology for those models.

NEW SECTION. **Sec. 21.** BONDS—ANNUAL BID BOND, PERFORMANCE, AND PROTEST. When any bid has been accepted, the agency may require of the successful bidder a bond payable to the state in such amount with such surety or sureties as determined by the agency, conditioned that he or she will fully, faithfully, and accurately perform the terms of the contract into which he or she has entered. Bidders who regularly do business with the state shall be permitted to file with the agency an annual performance bond in an amount established by the agency and such annual bond shall be acceptable as surety in lieu of furnishing individual bonds. The agency may also require bidders to provide bid bonds conditioned that if a bidder is awarded the contract the bidder will enter into and execute the contract, protest bonds, or other bonds the agency deems necessary. Agencies must adhere to the policies developed by the department regarding the use of protest bonds. All bonds must be filed with the agency on a form acceptable to the agency. Any surety issuing a bond must meet the qualification requirements established by the agency.

NEW SECTION. **Sec. 22.** AUTHORITY TO DEBAR. (1)(a) The director shall provide notice to the contractor of the director's intent to debar with the specific reason for the debarment. The department must establish the debarment process by rule.

(b) After reasonable notice to the contractor and reasonable opportunity for that contractor to be heard, the director has the authority to debar a contractor for cause from consideration for award of contracts. The debarment must be for a period of not more than three years.

(2) The director may debar a contractor based on a finding of one or more of the following causes:

(a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(b) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects responsibility as a state contractor;

(c) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(d) Two or more violations within the previous five years of the federal labor relations act as determined by the national labor relations board or court of competent jurisdiction;

(e) Violation of contract provisions, as set forth in this subsection, of a character that is regarded by the director to be so serious as to justify debarment action:

(i) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(ii) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, however the failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for debarment;

(f) Violation of ethical standards set forth in section 3 of this act; and

(g) Any other cause the director determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in regulations.

(3) The director must issue a written decision to debar. The decision must:

(a) State the reasons for the action taken; and

(b) Inform the debarred contractor of the contractor's rights to judicial or administrative review.

NEW SECTION. **Sec. 23.** TRANSPARENCY. (1) Agencies must annually submit to the department a list of all contracts that the agency has entered into or renewed. "Contracts," for the purposes of this section, does not include purchase orders. The department must maintain a publicly available list of all contracts entered into by agencies during each fiscal year, except that contracts for the employment of expert witnesses for the purposes of litigation shall not be made publicly available to the extent that information is exempt from disclosure under state law. Except as otherwise exempt, the data must identify the contracting agency, the contractor, the purpose of the contract, effective dates and periods of performance, the cost of the contract and funding source, any substantive modifications to the contract, and whether the contract was competitively procured or awarded on a sole source basis.

(2) The department may conduct audits of its master contracts and convenience contracts to ensure that the contractor is in compliance with the contract terms and conditions, including but not limited to providing only the goods and services specified in the contract at the contract price.

NEW SECTION. **Sec. 24.** CONTRACT AUDITS AND INVESTIGATIVE FINDINGS—REPORT BY STATE AUDITOR AND ATTORNEY GENERAL. The state auditor and the attorney general must annually by November 30th of each year, provide a collaborative report of contract audit and investigative findings, enforcement actions, and the status of agency resolution to the governor and the policy and fiscal committees of the legislature.

Sec. 25. RCW 43.19.005 and 2011 1st sp.s. c 43 s 103 are each amended to read as follows:

(1) The department of enterprise services is created as an executive branch agency. The department is vested with all powers and duties transferred to it under chapter 43, Laws of 2011 1st sp. sess. and such other powers and duties as may be authorized by law.

(2) In addition to the powers and duties as provided in chapter 43, Laws of 2011 1st sp. sess., the department shall((÷

((~~(a)~~)) provide products and services to support state agencies, and may enter into agreements with any other governmental entity or a public benefit nonprofit organization, in compliance with RCW 39.34.055, to furnish such products and services as deemed appropriate by both parties. The agreement shall provide for the reimbursement to the department of the reasonable cost of the products and services furnished. All governmental entities of this state may enter into such agreements, unless otherwise prohibited((~~; and~~

~~(b) Make available to state, local, and federal agencies, local governments, and public benefit nonprofit corporations on a full cost-recovery basis information and printing services to include equipment acquisition assistance, including leasing, brokering, and establishing master contracts. For the purposes of this section "public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or political subdivision of another state~~)).

Sec. 26. RCW 43.19.725 and 2011 c 358 s 2 are each amended to read as follows:

(1) The department ((~~of general administration~~)) must develop a model plan for state agencies to increase: (a) The number of small businesses registering in the state's ((~~common~~)) enterprise vendor registration and bid notification system; (b) the number of such registered small businesses annually receiving state contracts for goods and services purchased by the state; and (c) the percentage of total state dollars spent for goods and services purchased from such registered small businesses. The goal of the plan is to increase the number of small businesses receiving state contracts as well as the percentage of total state dollars spent for goods and services from small businesses registered in the state's ((~~common~~)) enterprise vendor registration and bid notification system by at least fifty percent in fiscal year 2013, and at least one hundred percent in fiscal year 2015 over the baseline data reported for fiscal year 2011.

(2) ((~~All state purchasing agencies~~)) The department, the department of transportation, and institutions of higher education as defined in RCW 28B.10.016 may adopt the model plan developed by the department ((~~of general administration~~)) under subsection (1) of this section. ((~~A state purchasing agency that~~)) If the agency does not adopt the model plan, it must establish and implement a plan consistent with the goals of subsection (1) of this section.

(3) To facilitate the participation of small businesses in the provision of goods and services to the state, including purchases under chapters ((~~39.29~~)) 39.— (the new chapter created in section 30 of this act) and 43.105 RCW, the ((~~state purchasing and material control~~)) director, under the powers granted ((~~by RCW 43.19.190 through 43.19.1939~~)) under this chapter, and ((~~all state purchasing agencies~~)) the department, the department of transportation, and institutions of higher education as defined in RCW 28B.10.016 operating under delegated authority granted under this chapter or RCW ((~~43.19.190 or~~)) 28B.10.029, must give technical assistance to small businesses regarding the state bidding process. Such technical assistance shall include providing opportunities for the agency to answer vendor questions about the bid solicitation requirements in advance of the bid due date and, upon request, holding a debriefing after the contract award to assist the vendor in

understanding how to improve his or her responses for future competitive procurements.

(4)(a) ((~~All state purchasing agencies~~)) The department, the department of transportation, and institutions of higher education as defined in RCW 28B.10.016 must maintain records of state purchasing contracts awarded to registered small businesses in order to track outcomes and provide accurate, verifiable information regarding the effects the technical assistance under subsection (3) of this section is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

(b) The department ((~~of general administration~~)) may provide assistance to other agencies attempting to maintain records of state purchasing contracts awarded to registered small businesses for the purposes described under (a) of this subsection.

(((~~(5) The definitions in this subsection apply throughout this section and RCW 43.19.727 unless the context clearly requires otherwise.~~

~~(a) "Small business" has the same meaning as defined in RCW 39.29.006.~~

~~(b) "State purchasing agencies" are limited to the department of general administration, the department of information services, the office of financial management, the department of transportation, and institutions of higher education.~~))

Sec. 27. RCW 43.19.727 and 2011 c 358 s 3 are each amended to read as follows:

(1) By November 15, 2013, and November 15th every two years thereafter, ((~~all state purchasing agencies~~)) the department, the department of transportation, and institutions of higher education as defined in RCW 28B.10.016 shall submit a report to the appropriate committees of the legislature providing verifiable information regarding the effects the technical assistance under RCW 43.19.725(3) is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

(2) By December 31, 2013, ((~~all state purchasing agencies~~)) the department, the department of transportation, and institutions of higher education as defined in RCW 28B.10.016 must use the web-based information system created under subsection (3)(a) of this section to capture the data required under subsection (3)(a) of this section.

(3)(a) The department ((~~of general administration~~)), in consultation with ((~~the department of information services,~~)) the department of transportation((~~,~~)) and the department of commerce, must develop and implement a web-based information system. The web-based information system must be used to capture data, track outcomes, and provide accurate and verifiable information regarding the effects the technical assistance under RCW 43.19.725(3) is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state. Such measurable data shall include, but not be limited to: (i) The number of registered small businesses that have been awarded state procurement contracts, (ii) the percentage of total state dollars spent for goods and services purchased from registered small businesses, and (iii) the number of registered small businesses that have bid on but were not awarded state purchasing contracts.

(b) ((~~By October 1, 2011, the department of general administration, in collaboration with the department of information services and the department of~~

~~transportation, shall submit a report to the appropriate committees of the legislature detailing the projected cost associated with the implementation and maintenance of the web-based information system.~~

~~(c)~~)) By September 1, 2012, the department ((~~of general administration~~)), in collaboration with ((~~the department of information services and~~)) the department of transportation, shall submit a report to the appropriate committees of the legislature providing any recommendations for needed legislation to improve the collection of data required under (a) of this subsection.

(((~~(d)~~))) (c) By December 31, 2013, the department ((~~of general administration~~)) must make the web-based information system available to all state purchasing agencies.

(((~~(e)~~))) (d) The department ((~~of general administration~~)) may also make the web-based information system available to other agencies that would like to use the system for the purposes of chapter 358, Laws of 2011.

NEW SECTION. **Sec. 28.** RCW 43.19.1932, 43.19.530, 43.19.534, 43.19.535, 43.19.536, 43.19.538, 43.19.539, 43.19.700, 43.19.702, 43.19.704, 43.19.797, and 39.29.052 are each recodified as sections in chapter 39.— RCW (the new chapter created in section 30 of this act).

NEW SECTION. **Sec. 29.** The following acts or parts of acts are each repealed:

(1) RCW 39.29.003 (Intent) and 1998 c 101 s 1, 1993 c 433 s 1, 1987 c 414 s 1, & 1979 ex.s. c 61 s 1;

(2) RCW 39.29.006 (Definitions) and 2011 c 358 s 7, 2009 c 486 s 6, 2002 c 354 s 235, 1998 c 101 s 2, 1993 c 433 s 2, 1987 c 414 s 2, 1981 c 263 s 1, & 1979 ex.s. c 61 s 2;

(3) RCW 39.29.008 (Limitation on personal service contracts) and 1993 c 433 s 6;

(4) RCW 39.29.009 (Prohibition on certain personal service contracts) and 2011 1st sp.s. c 21 s 60;

(5) RCW 39.29.011 (Competitive solicitation required—Exceptions) and 2011 1st sp.s. c 43 s 522, 2011 c 358 s 4, 2009 c 486 s 7, 1998 c 101 s 3, & 1987 c 414 s 3;

(6) RCW 39.29.016 (Emergency contracts) and 2011 1st sp.s. c 43 s 523, 1998 c 101 s 4, 1996 c 288 s 29, & 1987 c 414 s 4;

(7) RCW 39.29.018 (Sole source contracts) and 2011 1st sp.s. c 43 s 524, 2009 c 486 s 8, 1998 c 101 s 5, 1996 c 288 s 30, 1993 c 433 s 5, & 1987 c 414 s 5;

(8) RCW 39.29.020 (Compliance—Expenditure of funds prohibited—Civil penalty) and 1987 c 414 s 6 & 1974 ex.s. c 191 s 2;

(9) RCW 39.29.025 (Amendments) and 2011 1st sp.s. c 43 s 525, 1998 c 101 s 6, 1996 c 288 s 31, & 1993 c 433 s 3;

(10) RCW 39.29.040 (Exemption of certain contracts) and 2002 c 260 s 11, 2002 c 200 s 2, 1998 c 101 s 7, 1996 c 2 s 19, 1995 c 80 s 1, 1987 c 414 s 7, 1986 c 33 s 3, & 1979 ex.s. c 61 s 4;

(11) RCW 39.29.050 (Contracts subject to requirements established under office of minority and women's business enterprises) and 1983 c 120 s 12;

(12) RCW 39.29.055 (Contracts—Filing—Public inspection—Review and approval—Effective date) and 2011 1st sp.s. c 43 s 526, 1998 c 101 s 8, 1996 c 288 s 32, & 1993 c 433 s 7;

(13) RCW 39.29.065 (Department of enterprise services to establish policies and procedures—Adjustment of dollar thresholds) and 2011 1st sp.s. c 43 s 527, 2009 c 486 s 9, 1998 c 101 s 9, & 1987 c 414 s 8;

(14) RCW 39.29.068 (Department of enterprise services to maintain list of contracts—Report to legislature) and 2011 1st sp.s. c 43 s 528;

(15) RCW 39.29.075 (Summary reports on contracts) and 2011 1st sp.s. c 43 s 529 & 1987 c 414 s 9;

(16) RCW 39.29.080 (Data generated under personal services contracts) and 1997 c 373 s 1;

(17) RCW 39.29.090 (Contracts awarded by institutions of higher education) and 2011 1st sp.s. c 43 s 530 & 1998 c 101 s 11;

(18) RCW 39.29.100 (Contract management—Uniform guidelines—Guidebook) and 2011 1st sp.s. c 43 s 531 & 2002 c 260 s 7;

(19) RCW 39.29.110 (Use of guidelines—Report to department of enterprise services) and 2011 1st sp.s. c 43 s 532 & 2002 c 260 s 8;

(20) RCW 39.29.120 (Contract management—Training—Risk-based audits—Reports) and 2011 1st sp.s. c 43 s 533 & 2002 c 260 s 9;

(21) RCW 39.29.130 (Contract audits and investigative findings—Report by state auditor and attorney general) and 2002 c 260 s 10;

(22) RCW 39.29.900 (Severability—1987 c 414) and 1987 c 414 s 13;

(23) RCW 43.19.180 (State purchasing and material control—Director's responsibility) and 2011 1st sp.s. c 43 s 205, 2009 c 549 s 5063, 1975-'76 2nd ex.s. c 21 s 1, & 1965 c 8 s 43.19.180;

(24) RCW 43.19.185 (State purchasing and material control—System for the use of credit cards or similar devices to be developed—Rules) and 2011 1st sp.s. c 43 s 206, 1987 c 47 s 1, & 1982 1st ex.s. c 45 s 1;

(25) RCW 43.19.190 (State purchasing and material control—Director's powers and duties—Rules) and 2011 1st sp.s. c 43 s 805, 2011 1st sp.s. c 43 s 207, 2002 c 200 s 3, 1995 c 269 s 1401, 1994 c 138 s 1, 1993 sp.s. c 10 s 2, 1993 c 379 s 102, & 1991 c 238 s 135;

(26) RCW 43.19.1901 ("Purchase" includes leasing or renting—Electronic data processing equipment excepted) and 1987 c 434 s 23, 1983 c 3 s 102, & 1967 ex.s. c 104 s 1;

(27) RCW 43.19.1905 (Statewide policy for purchasing and material control—Definitions) and 2011 1st sp.s. c 43 s 208, 2009 c 486 s 10, & 2008 c 215 s 4;

(28) RCW 43.19.19052 (Initial purchasing and material control policy—Legislative intent—Agency cooperation) and 2011 1st sp.s. c 43 s 209, 1998 c 245 s 54, 1995 c 269 s 1403, 1986 c 158 s 9, 1979 c 151 s 98, & 1975-'76 2nd ex.s. c 21 s 6;

(29) RCW 43.19.1906 (Competitive bids—Procedure—Exceptions) and 2011 1st sp.s. c 43 s 210, 2008 c 215 s 5, 2006 c 363 s 1, & 2002 c 332 s 4;

(30) RCW 43.19.1908 (Bids—Solicitation—Qualified bidders) and 2011 1st sp.s. c 43 s 211, 2009 c 486 s 11, 2006 c 363 s 2, 1994 c 300 s 2, & 1965 c 8 s 43.19.1908;

(31) RCW 43.19.1911 (Competitive bids—Notice of modification or cancellation—Cancellation requirements—Lowest responsible bidder—Preferential purchase—Life cycle costing) and 2006 c 363 s 3, 2005 c 204 s 5, 2003 c 136 s 6, 1996 c 69 s 2, 1989 c 431 s 60, 1983 c 183 s 4, 1980 c 172 s 8, & 1965 c 8 s 43.19.1911;

(32) RCW 43.19.1913 (Rejection of bid for previous unsatisfactory performance) and 2011 1st sp.s. c 43 s 212 & 1965 c 8 s 43.19.1913;

(33) RCW 43.19.1914 (Low bidder claiming error—Prohibition on later bid for same project) and 1996 c 18 s 7;

(34) RCW 43.19.1915 (Bidder's bond—Annual bid bond) and 2011 1st sp.s. c 43 s 213, 2009 c 549 s 5064, & 1965 c 8 s 43.19.1915;

(35) RCW 43.19.1937 (Acceptance of benefits, gifts, etc., prohibited—Penalties) and 2009 c 549 s 5065, 1995 c 269 s 1405, 1975-'76 2nd ex.s. c 21 s 13, & 1965 c 8 s 43.19.1937;

(36) RCW 43.19.1939 (Unlawful to offer, give, accept, benefits as inducement for or to refrain from bidding—Penalty) and 2003 c 53 s 226 & 1965 c 8 s 43.19.1939; and

(37) RCW 43.19.200 (Duty of others in relation to purchases—Emergency purchases—Written notifications) and 2011 1st sp.s. c 43 s 221, 2009 c 549 s 5066, 1986 c 158 s 10, 1984 c 102 s 2, 1971 c 81 s 111, & 1965 c 8 s 43.19.200.

NEW SECTION. **Sec. 30.** Sections 1 through 24 of this act constitute a new chapter in Title 39 RCW.

NEW SECTION. **Sec. 31.** This act takes effect January 1, 2013.

NEW SECTION. **Sec. 32.** 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 6, 2012.
Passed by the Senate March 2, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 225

[House Bill 2482]

INNOVATION PARTNERSHIP ZONES

AN ACT Relating to designating innovation partnership zones; and amending RCW 43.330.270, 43.160.010, 43.160.020, and 82.14.370.

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

Sec. 1. RCW 43.330.270 and 2009 c 72 s 1 are each amended to read as follows:

(1) The department ((~~shall~~)) must design and implement an innovation partnership zone program through which the state will encourage and support research institutions, workforce training organizations, and globally competitive companies to work cooperatively in close geographic proximity to create commercially viable products and jobs.

(2) The director ((~~shall~~)) must designate innovation partnership zones on the basis of the following criteria:

(a) Innovation partnership zones must have three types of institutions operating within their boundaries, or show evidence of planning and local partnerships that will lead to dense concentrations of these institutions:

(i) Research capacity in the form of a university or community college fostering commercially valuable research, nonprofit institutions creating commercially applicable innovations, or a national laboratory;

(ii) An industry cluster as defined in RCW 43.330.090. The cluster must include a dense proximity of globally competitive firms in a research-based industry or industries or ((~~of~~)) individual firms with innovation strategies linked to (a)(i) of this subsection. A globally competitive firm may be signified through international organization for standardization 9000 or 1400 certification, or ((~~other recognized~~)) evidence of sales in international ((~~success~~)) markets; and

(iii) Training capacity either within the zone or readily accessible to the zone. The training capacity requirement may be met by the same institution as the research capacity requirement, to the extent both are associated with an educational institution in the proposed zone.

(b) The support of a local jurisdiction, a research institution, an educational institution, an industry or cluster association, a workforce development council, and an associate development organization, port, or chamber of commerce;

(c) Identifiable boundaries for the zone within which the applicant will concentrate efforts to connect innovative researchers, entrepreneurs, investors, industry associations or clusters, and training providers. The geographic area defined should lend itself to a distinct identity and have the capacity to accommodate firm growth;

(d) The innovation partnership zone administrator must be an economic development council, port, workforce development council, city, or county.

(3) With respect solely to the research capacity required in subsection (2)(a)(i) of this section, the director may waive the requirement that the research institution be located within the zone. To be considered for such a waiver, an applicant must provide a specific plan that demonstrates the research institution's unique qualifications and suitability for the zone, and the types of jointly executed activities that will be used to ensure ongoing, face-to-face interaction and research collaboration among the zone's partners.

(4) On October 1st of each odd-numbered year, the director ((~~shall~~)) must designate innovation partnership zones on the basis of applications that meet the legislative criteria, estimated economic impact of the zone, evidence of forward planning for the zone, and other criteria as ((~~recommended by~~)) developed by the department in consultation with the Washington state economic development commission. Estimated economic impact must include evidence of anticipated private investment, job creation, innovation, and commercialization. The director ((~~shall~~)) must require evidence that zone applicants will promote commercialization, innovation, and collaboration among zone residents.

(5) Innovation partnership zones are eligible for funds and other resources as provided by the legislature or at the discretion of the governor.

(6) If the innovation partnership zone meets the other requirements of the fund sources, then the zone is eligible for the following funds relating to:

(a) The local infrastructure financing tools program;

(b) The sales and use tax for public facilities in rural counties; ((~~and~~))

(c) Job skills;

(d) Local improvement districts; and

(e) Community economic revitalization board projects under chapter 43.160 RCW.

(7) An innovation partnership zone ((~~shall~~)) must be designated as a zone for a four-year period. At the end of the four-year period, the zone must reapply for the designation through the department.

(8) If the director finds that an applicant does not meet all of the statutory criteria or additional criteria recommended by the department in consultation with the Washington state economic development commission to be designated as an innovation partnership zone, the department must:

(a) Identify the deficiencies in the proposal and recommended steps for the applicant to take to strengthen the proposal;

(b) Provide the applicant with the opportunity to appeal the decision to the director; and

(c) Allow the applicant to reapply for innovation partnership designation on October 1st of the following calendar year or during any subsequent application cycle.

(9) If the director finds at any time after the initial year of designation that an innovation partnership zone is failing to meet the performance standards required in its contract with the department, the director may withdraw such designation and cease state funding of the zone.

(((~~(9)~~))) (10) The department ((~~shall~~)) must convene annual information sharing events for innovation partnership zone administrators and other interested parties.

(((~~(10)~~))) (11) An innovation partnership zone ((~~shall~~)) must annually provide performance measures as required by the director, including but not limited to private investment measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation.

(((~~(11)~~))) (12) The department ((~~shall~~)) must compile a biennial report on the innovation partnership zone program by December 1st of every even-numbered year. The report ((~~shall~~)) must provide information for each zone on its: Objectives; funding, tax incentives, and other support obtained from public sector sources; major activities; partnerships; performance measures; and outcomes achieved since the inception of the zone or since the previous biennial report. The Washington state economic development commission ((~~shall~~)) must review the department's draft report and make recommendations on ways to increase the effectiveness of individual zones and the program overall. The department ((~~shall~~)) must submit the report, including the commission's recommendations, to the governor and legislature beginning December 1, 2010.

Sec. 2. RCW 43.160.010 and 2008 c 327 s 1 are each amended to read as follows:

(1) The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabitants of the state. Reducing unemployment and reducing the time citizens remain jobless is important for the economic welfare of the state. A valuable

means of fostering economic development is the construction of public facilities which contribute to the stability and growth of the state's economic base. Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include:

(a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;

(b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;

(c) Encouraging wider access to financial resources for both large and small industrial development projects;

(d) Encouraging new economic development or expansions to maximize employment;

(e) Encouraging the retention of viable existing firms and employment; ((~~and~~))

(f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment; and

(g) Enhancing job and business growth through facility development and other improvements in innovation partnership zones designated under RCW 43.330.270.

(2) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways, county roads, or city streets for industries considering locating or expanding in this state.

(3) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.

(4) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to assist development of telecommunications infrastructure that supports business development, retention, and expansion in the state.

(5) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of the waste stream. The legislature finds that public facilities which result in private construction of processing or remanufacturing facilities for recyclable materials are eligible for consideration from the board.

(6) The legislature finds that sharing economic growth statewide is important to the welfare of the state. The ability of communities to pursue business and job retention, expansion, and development opportunities depends on their capacity to ready necessary economic development project plans, sites, permits, and infrastructure for private investments. Project-specific planning, predevelopment, and infrastructure are critical ingredients for economic

development. It is, therefore, the intent of the legislature to increase the amount of funding available through the community economic revitalization board and to authorize flexibility for available resources in these areas to help fund planning, predevelopment, and construction costs of infrastructure and facilities and sites that foster economic vitality and diversification.

Sec. 3. RCW 43.160.020 and 2009 c 565 s 35 are each amended to read as follows:

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

(1) "Board" means the community economic revitalization board.

(2) "Department" means the department of commerce.

(3) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.

(4) "Public facilities" means a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of: Bridges((,)); roads((,)); research, testing, training, and incubation facilities in areas designated as innovation partnership zones under RCW 43.330.270; buildings or structures; domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, ((buildings or structures,)) and port facilities((,)); all for the purpose of job creation, job retention, or job expansion.

(5) "Rural county" means a county with a population density of fewer than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles, as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

Sec. 4. RCW 82.14.370 and 2009 c 511 s 1 are each amended to read as follows:

(1) The legislative authority of a rural county 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)) must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax ((shall)) may not exceed 0.09 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, except that for rural counties with population densities between sixty and one hundred persons per square mile, the rate shall not exceed 0.04 percent before January 1, 2000.

(2) The tax imposed under subsection (1) of this section ((shall)) must 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)) must perform the collection of such taxes on behalf of the county at no cost to the county.

(3)(a) Moneys collected under this section ((shall)) may only be used to finance public facilities serving economic development purposes in rural counties and finance personnel in economic development offices. The public facility must be listed as an item in the officially adopted county overall

economic development plan, or the economic development section of the county's comprehensive plan, or the comprehensive plan of a city or town located within the county for those counties planning under RCW 36.70A.040. For those counties that do not have an adopted overall economic development plan and do not plan under the growth management act, the public facility must be listed in the county's capital facilities plan or the capital facilities plan of a city or town located within the county.

(b) In implementing this section, the county ((~~shall~~)) must consult with cities, towns, and port districts located within the county and the associate development organization serving the county to ensure that the expenditure meets the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection. Each county collecting money under this section ((~~shall~~)) must report, as follows, to the office of the state auditor, within one hundred fifty days after the close of each fiscal year: (i) A list of new projects begun during the fiscal year, showing that the county has used the funds for those projects consistent with the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection; and (ii) expenditures during the fiscal year on projects begun in a previous year. Any projects financed prior to June 10, 2004, from the proceeds of obligations to which the tax imposed under subsection (1) of this section has been pledged ((~~shall~~)) may not be deemed to be new projects under this subsection. No new projects funded with money collected under this section may be for justice system facilities.

(c) The definitions in this section apply throughout this section.

(i) "Public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroads, ((~~electricity~~)) electrical facilities, natural gas facilities, research, testing, training, and incubation facilities in innovation partnership zones designated under RCW 43.330.270, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, and port facilities in the state of Washington.

(ii) "Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county.

(iii) "Economic development office" means an office of a county, port districts, or an associate development organization as defined in RCW 43.330.010, which promotes economic development purposes within the county.

(4) No tax may be collected under this section before July 1, 1998.

(a) Except as provided in (b) of this subsection, no tax may be collected under this section by a county more than twenty-five years after the date that a tax is first imposed under this section.

(b) For counties imposing the tax at the rate of 0.09 percent before August 1, 2009, the tax expires on the date that is twenty-five years after the date that the 0.09 percent tax rate was first imposed by that county.

(5) For purposes of this section, "rural county" means a county with a population density of less than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

Passed by the House March 5, 2012.

Passed by the Senate February 29, 2012.

Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 226

[House Bill 2499]

POLITICAL ADVERTISING—DISCLOSURE

AN ACT Relating to expanding disclosure of political advertising to include advertising supporting or opposing ballot measures; and amending RCW 42.17A.320.

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

Sec. 1. RCW 42.17A.320 and 2010 c 204 s 505 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party must include as part of the communication:

(a) The statement: "No candidate authorized this ad. It is paid for by (name, address, city, state)";

(b) If the sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication; and

(c) If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity.

(3) The information required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and

(c) Be set apart from any other printed matter.

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height, and have a reasonable color contrast with the background:

"No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period ((~~before the date of the advertisement~~)) preceding the date on which the advertisement is initially published or otherwise presented to the public. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period ((~~before the date of the advertisement~~)) preceding the date on which the advertisement is initially published or otherwise presented to the public. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political advertising costing one thousand dollars or more supporting or opposing ballot measures sponsored by a political committee must include the information on the "Top Five Contributors" consistent with subsections (4) and (5) of this section.

(7) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

((~~(7)~~)) (8) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Passed by the House March 5, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 227

[Substitute House Bill 2259]

HIGHER EDUCATION—REPORTING REQUIREMENTS

AN ACT Relating to higher education reporting requirements; creating a new section; and repealing RCW 28B.10.569.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to minimize the regulatory burden on institutions of higher education and to prioritize scarce resources to be directed to the education of students rather than unnecessary reporting requirements. It is the intent of the legislature specifically that reporting requirements that are duplicative of federal reporting requirements be eliminated.

NEW SECTION. **Sec. 2.** RCW 28B.10.569 (Crime statistics reporting—Campus safety plans—Memoranda of understanding and mutual aid agreements—Task forces—Contact information) and 2008 c 168 s 1 & 1990 c 288 s 7 are each repealed.

Passed by the House February 8, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 228

[Substitute House Bill 2313]

HIGHER EDUCATION—BOARDS OF TRUSTEES OR REGENTS—MEETING REQUIREMENTS

AN ACT Relating to the meeting procedures of the boards of trustees and boards of regents of institutions of higher education; and amending RCW 28B.20.105, 28B.30.120, 28B.35.110, 28B.40.110, 28B.50.100, and 28B.15.067.

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

Sec. 1. RCW 28B.20.105 and 2011 c 336 s 717 are each amended to read as follows:

The board shall organize by electing from its membership a president and an executive committee, of which committee the president shall be ex officio chair. The board may adopt bylaws or rules and regulations for its own government and shall follow procedures for open public meetings in chapter 42.30 RCW. The board shall provide time for public comment at each meeting. The board shall hold regular quarterly meetings, and during the interim between such meetings the executive committee may transact business for the whole board: PROVIDED, That the executive committee may call special meetings of the whole board when such action is deemed necessary.

Sec. 2. RCW 28B.30.120 and 1979 ex.s. c 103 s 6 are each amended to read as follows:

Meetings of the board of regents may be called in such manner as the board may prescribe((,)) and shall follow procedures for open public meetings in chapter 42.30 RCW. A full meeting of the board shall be called at least once a year. The board shall provide time for public comment at each meeting. No vacancy in said board shall impair the rights of the remaining members of the board.

Sec. 3. RCW 28B.35.110 and 2011 c 336 s 727 are each amended to read as follows:

Each board of regional university trustees shall hold at least two regular meetings each year, at such times as may be provided by the board, and shall follow procedures for open public meetings in chapter 42.30 RCW. Each board

shall provide time for public comment at each meeting. Special meetings shall be held as may be deemed necessary, whenever called by the chair or by a majority of the board. Public notice of all meetings shall be given in accordance with chapter 42.32 RCW.

Sec. 4. RCW 28B.40.110 and 2011 c 336 s 733 are each amended to read as follows:

The board of The Evergreen State College trustees shall hold at least two regular meetings each year, at such times as may be provided by the board, and shall follow procedures for open public meetings in chapter 42.30 RCW. The board shall provide time for public comment at each meeting. Special meetings shall be held as may be deemed necessary, whenever called by the chair or by a majority of the board. Public notice of all meetings shall be given in accordance with chapter 42.32 RCW.

Sec. 5. RCW 28B.50.100 and 2011 c 336 s 739 are each amended to read as follows:

There is hereby created a board of trustees for each college district as set forth in this chapter. Each board of trustees shall be composed of five trustees, who shall be appointed by the governor for terms commencing October 1st of the year in which appointed. In making such appointments the governor shall give consideration to geographical diversity, and representing labor, business, women, and racial and ethnic minorities, in the membership of the boards of trustees. The boards of trustees for districts containing technical colleges shall include at least one member from business and one member from labor.

The successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term. Each member shall serve until a successor is appointed and qualified.

Every trustee shall be a resident and qualified elector of the college district. No trustee may be an employee of the community and technical college system, a member of the board of directors of any school district, or a member of the governing board of any public or private educational institution.

Each board of trustees shall organize itself by electing a chair from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. Three members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The district president, or if there be none, the president of the college, shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.

Each board of trustees shall follow procedures for open public meetings in chapter 42.30 RCW. Each board shall provide time for public comment at each meeting.

Members of the boards of trustees may be removed for misconduct or malfeasance in office in the manner provided by RCW 28B.10.500.

Sec. 6. RCW 28B.15.067 and 2011 1st sp.s. c 10 s 3 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

(2) Beginning in the 2011-12 academic year, reductions or increases in full-time tuition fees shall be as provided in the omnibus appropriations act for resident undergraduate students at community and technical colleges. The governing boards of the state universities, regional universities, and The Evergreen State College; and the state board for community and technical colleges may reduce or increase full-time tuition fees for all students other than resident undergraduates, including nonresident students, summer school students, and students in other self-supporting degree programs. Percentage increases in full-time tuition may exceed the fiscal growth factor. The state board for community and technical colleges may pilot or institute differential tuition models. The board may define scale, scope, and rationale for the models.

(3)(a) Beginning with the 2011-12 academic year and through the end of the 2014-15 academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College may reduce or increase full-time tuition fees for all students, including summer school students and students in other self-supporting degree programs. Percentage increases in full-time tuition fees may exceed the fiscal growth factor. Reductions or increases may be made for all or portions of an institution's programs, campuses, courses, or students.

(b) Prior to reducing or increasing tuition for each academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College shall consult with existing student associations or organizations with student undergraduate and graduate representatives regarding the impacts of potential tuition increases. Each governing board shall make public its proposal for tuition and fee increases twenty-one days before the governing board of the institution considers adoption and allow opportunity for public comment. However, the requirement to make public a proposal for tuition and fee increases twenty-one days before the governing board considers adoption shall not apply if the omnibus appropriations act has not passed the legislature by May 15th. Governing boards shall be required to provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

(c) Prior to reducing or increasing tuition for each academic year, the state board for community and technical college system shall consult with existing student associations or organizations with undergraduate student representation regarding the impacts of potential tuition increases. The state board for community and technical colleges shall provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

(4) Beginning with the 2015-16 academic year through the 2018-19 academic year, the governing boards of the state universities, regional universities, and The Evergreen State College may set tuition for resident undergraduates as follows:

(a) If state funding for a college or university falls below the state funding provided in the operating budget for fiscal year 2011, the governing board may increase tuition up to the limits set in (d) of this subsection, reduce enrollments, or both;

(b) If state funding for a college or university is at least at the level of state funding provided in the operating budget for fiscal year 2011, the governing board may increase tuition up to the limits set in (d) of this subsection and shall continue to at least maintain the actual enrollment levels for fiscal year 2011 or increase enrollments as required in the omnibus appropriations act; ((~~and~~))

(c) If state funding is increased so that combined with resident undergraduate tuition the sixtieth percentile of the total per-student funding at similar public institutions of higher education in the global challenge states under RCW 28B.15.068 is exceeded, the governing board shall decrease tuition by the amount needed for the total per-student funding to be at the sixtieth percentile under RCW 28B.15.068; and

(d) The amount of tuition set by the governing board for an institution under this subsection (4) may not exceed the sixtieth percentile of the resident undergraduate tuition of similar public institutions of higher education in the global challenge states.

(5) The tuition fees established under this chapter shall not apply to high school students enrolling in participating institutions of higher education under RCW 28A.600.300 through 28A.600.400.

(6) The tuition fees established under this chapter shall not apply to eligible students enrolling in a dropout reengagement program through an interlocal agreement between a school district and a community or technical college under RCW 28A.175.100 through 28A.175.110.

(7) The tuition fees established under this chapter shall not apply to eligible students enrolling in a community or technical college participating in the pilot program under RCW 28B.50.534 for the purpose of obtaining a high school diploma.

(8) Beginning in the 2019-20 academic year, reductions or increases in full-time tuition fees for resident undergraduates at four-year institutions of higher education shall be as provided in the omnibus appropriations act.

Passed by the House March 5, 2012.
Passed by the Senate February 28, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 229

[Engrossed Second Substitute House Bill 2483]

HIGHER EDUCATION COORDINATION

AN ACT Relating to higher education coordination; amending RCW 28B.77.005, 28B.76.110, 28B.76.210, 28B.76.230, 28B.76.235, 28B.76.240, 28B.76.270, 28B.76.325, 28B.76.510, 28B.76.695, 44.04.260, 43.88.230, 28B.76.280, 28B.76.310, 28B.76.090, 28B.118.010, 9A.60.070, 18.260.110, 28A.175.130, 28A.600.280, 28A.600.390, 28A.660.050, 28B.07.040, 28B.10.020, 28B.10.053, 28B.10.118, 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.423, 28B.10.784, 28B.10.790, 28B.12.030, 28B.12.040, 28B.15.012, 28B.15.013, 28B.15.015, 28B.15.068, 28B.15.068, 28B.15.102, 28B.15.460, 28B.15.762, 28B.30.515, 28B.45.014, 28B.45.020, 28B.45.030, 28B.45.040, 28B.45.080, 28B.50.140, 28B.50.820, 28B.65.040, 28B.65.050, 28B.76.250, 28B.85.010, 28B.85.020, 28B.85.030, 28B.85.040, 28B.85.050, 28B.85.060, 28B.85.070, 28B.85.080, 28B.85.090, 28B.85.100, 28B.85.130, 28B.85.170, 28B.90.010, 28B.90.020, 28B.90.030, 28B.92.030, 28B.92.070, 28B.92.082, 28B.97.020, 28B.102.030, 28B.108.040, 28B.109.010, 28B.110.030, 28B.110.040, 28B.116.030, 28B.117.020, 28B.120.010, 28B.120.020, 28B.120.025, 28B.120.030, 28B.120.040, 28C.10.030, 28C.10.040,

28C.18.030, 28C.18.060, 35.104.020, 35.104.040, 42.17A.705, 43.06.115, 43.19.797, 43.41.400, 43.41A.100, 43.88.090, 43.105.825, 43.215.090, 43.330.310, 43.330.375, 47.80.090, 70.180.110, 74.13.570, 28A.175.135, 28B.12.070, 28B.15.764, 28B.76.505, 28B.92.080, 28B.95.020, 28B.103.030, 28B.108.020, 28B.117.030, 28B.15.069, 28A.600.310, 28B.15.380, 28B.15.730, 28B.15.734, 28B.15.750, 28B.15.756, 28A.600.290, 28A.700.020, 28A.700.060, 28B.20.130, 28B.30.150, 28B.20.308, 28B.20.478, 28B.30.530, 28B.35.120, 28B.35.202, 28B.35.205, 28B.35.215, 28B.40.120, 28B.40.206, 28B.45.060, 28B.50.810, 43.09.440, 43.43.934, 43.43.938, 43.60A.151, and 43.88D.010; amending 2011 1st sp.s. c 11 s 244 (uncodified); reenacting and amending RCW 28B.76.2401, 28A.230.100, 28B.15.760, 28B.50.030, 28B.92.060, 28B.102.020, 28B.116.010, and 43.330.280; adding new sections to chapter 28B.77 RCW; adding new sections to chapter 44.04 RCW; adding new sections to chapter 43.41 RCW; creating new sections; recodifying RCW 28B.76.110, 28B.76.210, 28B.76.230, 28B.76.235, 28B.76.240, 28B.76.2401, 28B.76.250, 28B.76.270, 28B.76.280, 28B.76.325, 28B.76.510, 28B.76.695, and 28B.76.310; decodifying RCW 28B.10.125; repealing RCW 28B.76.290, 28B.10.682, 28B.15.732, 28B.15.752, 28B.15.796, 28B.20.280, 28B.30.500, and 43.88D.005; providing an effective date; 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 28B.77 RCW to read as follows:

The legislature recognizes that increasing educational attainment is critical to the social and economic well-being of Washington. It is the intent of the legislature to create the student achievement council to provide the focus and propose the goals for increasing educational attainment including improving student transitions from secondary to postsecondary education and training and between and among postsecondary institutions.

The legislature finds that increasing educational attainment is essential for maintaining the health of a democratic society and the competitiveness of the state in the global economy. By increasing educational attainment, students will develop into citizens who are more capable of critical thinking, more aware of their world and its diversity, more creative in their problem-solving, and more successful in addressing social and economic challenges of the future in an informed and thoughtful way.

The legislature finds that educational attainment is a powerful predictor of well-being. Students who have completed higher levels of education or training are more likely to achieve success in work or life and less likely to require taxpayer support. Education is perhaps the most important engine of economic growth and individual and financial health. Success in growing a stronger economy and democracy and lifting incomes and well-being depends upon increasing educational attainment.

The legislature recognizes that reaching the overall objective of increased educational attainment means that Washington's education systems must enable many more students to gain meaningful high school diplomas, postsecondary certificates, associate degrees, bachelor's degrees, and graduate degrees.

The legislature recognizes that the requirement for academic attainment is increasing. According to various academic studies, Washington's economy is becoming even more highly dependent on workers with postsecondary education. Other studies indicate that rates of successful participation in higher education by Washington residents, especially among lower-income and disadvantaged persons, are among the lowest in the nation.

Due to the large and growing gap between education requirements and achievement, it is the intent of the legislature to focus on increased educational

attainment as a key priority and to closely track progress towards meeting this statewide objective.

PART I
STUDENT ACHIEVEMENT COUNCIL

Sec. 101. RCW 28B.77.005 and 2011 1st sp.s. c 11 s 301 are each amended to read as follows:

(1) On July 1, 2012, the higher education coordinating board is abolished and the student achievement council ((~~for higher education~~)) is created ((~~subject to the recommendations of the higher education steering committee established in section 302, chapter 11, Laws of 2011 1st sp. sess. and implementing legislation enacted by the 2012 legislature~~)).

(2) The council is composed of nine voting members as provided in this subsection.

(a) Five citizen members shall be appointed by the governor with the consent of the senate. One of the citizen members shall be a student. The citizen members shall be selected based on their knowledge of or experience in higher education. In making appointments to the council, the governor shall give consideration to citizens representing labor, business, women, and racial and ethnic minorities, as well as geographic representation, to ensure that the council's membership reflects the state's diverse population. The citizen members shall serve for four-year terms except for the student member, who shall serve for one year; however, the terms of the initial members shall be staggered.

(b) A representative of an independent nonprofit higher education institution as defined in RCW 28B.07.020(4), selected by an association of independent nonprofit baccalaureate degree-granting institutions. The representative appointed under this section shall excuse himself or herself from voting on matters relating primarily to public institutions of higher education.

(c) Chosen for their recognized ability and innovative leadership experience in broad education policy and system design, a representative of each of the following shall be selected by the respective organizations, who shall serve at the pleasure of the appointing organizations:

(i) A representative of the four-year institutions of higher education as defined in RCW 28B.10.016, selected by the presidents of those institutions;

(ii) A representative of the state's community and technical college system, selected by the state board for community and technical colleges; and

(iii) A representative of the state's K-12 education system, selected by the superintendent of public instruction in consultation with the department of early learning and the state board of education. The representative appointed under this subsection (2)(c)(iii) shall excuse himself or herself from voting on matters relating primarily to institutions of higher education.

(3) The chair shall be selected by the council from among the citizen members appointed to the council. The chair shall serve a one-year term but may serve more than one term if selected to do so by the membership.

(4) The council may create advisory committees on an ad hoc basis for the purpose of obtaining input from students, faculty, and higher education experts and practitioners, citizens, business and industry, and labor, and for the purpose

of informing their research, policy, and programmatic functions. Ad hoc advisory committees addressing secondary to postsecondary transitions and university and college admissions requirements must include K-12 sector representatives including teachers, school directors, principals, administrators, and others as the council may direct, in addition to higher education representatives. The council shall maintain a contact list of K-12 and higher education stakeholder organizations to provide notices to stakeholders regarding the purposes of ad hoc advisory committees, timelines for planned work, means for participation, and a statement of desired outcomes.

(5) Any vacancies on the council shall be filled in the same manner as the original appointments. Appointments to fill vacancies shall be only for such terms as remain unexpired. Any vacancies among council members appointed by the governor shall be filled by the governor subject to confirmation by the senate and shall have full authority to act before the time the senate acts on their confirmation.

NEW SECTION. **Sec. 102.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Committee" means the joint higher education committee.

(2) "Council" means the student achievement council.

(3) "Education data center" means the education data center established in the office of financial management as provided under RCW 43.41.400.

(4) "Four-year institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College.

(5) "Major expansion" means expansion of the higher education system that requires significant new capital investment, including building new institutions, campuses, branches, or centers or conversion of existing campuses, branches, or centers that would result in a mission change.

(6) "Mission change" means a change in the level of degree awarded or institutional type not currently authorized in statute.

(7) "Office" means the office of student financial assistance created in RCW 28B.76.090.

NEW SECTION. **Sec. 103.** (1) Guided by the state's overarching objective of substantially increasing educational attainment for the purposes outlined in section 1 of this act, the council has a dual mission:

(a) To propose to the governor and the legislature goals for increasing educational attainment in Washington, recommend the resources necessary to achieve the goals, and monitor progress toward meeting the goals;

(b) To propose to the governor, the legislature, and the state's educational institutions, improvements and innovations needed to continually adapt the state's educational institutions to evolving educational attainment needs; and

(c) To advocate for higher education through various means, with the goal of educating the general public on the economic, social, and civic benefits of postsecondary education, and the consequent need for increased financial support and civic commitment in the state.

(2) In the pursuit of the missions the council links the work of educational programs, schools, and institutions from secondary through postsecondary

education and training and through careers. The council must connect the work of the superintendent of public instruction, the state board of education, the professional educator standards board, the state board for community and technical colleges, the workforce training and education coordinating board, and the four-year institutions of higher education, as well as the independent schools and colleges.

(3) Drawing on the staff expertise of the council and other state, national, and international analysis and research assets, the council must also take a leading role in facilitating educational attainment analysis and research leading to increased educational attainment and education system development.

NEW SECTION. **Sec. 104.** (1) Aligned with the state's biennial budget and policy cycles, the council shall propose educational attainment goals and priorities to meet the state's evolving needs. The council shall identify strategies for meeting the goals and priorities by means of a short-term strategic action plan and a ten-year plan that serves as a roadmap.

(a) The goals must address the needs of Washington residents to reach higher levels of educational attainment and Washington's workforce needs for certificates and degrees in particular fields of study.

(b) The council shall identify the resources it deems appropriate to meet statewide goals and also recognize current state economic conditions and state resources.

(c) In proposing goals, the council shall collaborate with the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the four-year institutions of higher education, independent colleges and degree-granting institutions, certificate-granting institutions, and the workforce training and education coordinating board.

(2) The council shall update the strategic action plan every two years with the first strategic action plan to be submitted to the governor and the legislature by December 1, 2012. The ten-year roadmap must be updated every two years with the first roadmap to be submitted to the governor and the legislature by December 1, 2013. The council must provide regular updates to the joint higher education committee created in section 201 of this act as needed.

(3) In order to develop the ten-year roadmap, the council shall conduct strategic planning in collaboration with agencies and stakeholders and include input from the legislature. The roadmap must encompass all sectors of higher education, including secondary to postsecondary transitions. The roadmap must outline strategies that address:

(a) Strategic planning, which includes setting benchmarks and goals for long-term degree production generally and in particular fields of study;

(b) Expanding access, affordability, quality, efficiency, and accountability among the various institutions of higher education;

(c) Higher education finance planning and strategic investments including budget recommendations necessary to meet statewide goals;

(d) System design and coordination;

(e) Improving student transitions;

(f) Higher education data and analysis, in collaboration with the education data center, which includes outcomes for recruitment, retention, and success of students;

(g) College and career access preparedness, in collaboration with the office of the superintendent of public instruction and the state board of education;

(h) Expanding participation and success for racial and ethnic minorities in higher education;

(i) Development and expansion of innovations in higher education including innovations to increase attainment of postsecondary certificates, and associate, baccalaureate, graduate, and professional degrees; and innovations to improve precollege education in terms of cost-effectiveness and transitions to college-level education; and

(j) Relevant policy research.

(4) As needed, the council must conduct system reviews consistent with RCW 28B.76.230 (as recodified by this act).

(5) The council shall facilitate the development and expansion of innovative practices within, between, and among the sectors to increase educational attainment and assess the effectiveness of the innovations.

(6) The council shall use the data and analysis produced by, and in consultation with, the education data center created in RCW 43.41.400 in developing policy recommendations and proposing goals. In conducting research and analysis the council at a minimum must:

(a) Identify barriers to increasing educational attainment, evaluate effectiveness of various educational models, identify best practices, and recommend methods to overcome barriers;

(b) Analyze data from multiple sources including data from academic research and from areas and agencies outside of education including but not limited to data from the department of health, the department of corrections, and the department of social and health services to determine best practices to remove barriers and to improve educational attainment;

(c) Assess educational achievement disaggregated by income level, age, gender, race and ethnicity, country of origin, and other relevant demographic groups working with data from the education data center;

(d) Track progress toward meeting the state's goals;

(e) Communicate results and provide access to data analysis to policymakers, the superintendent of public instruction, institutions of higher education, students, and the public; and

(f) Use data from the education data center wherever appropriate to conduct duties in (a) through (e) of this subsection.

(7) The council shall collaborate with the appropriate state agencies and stakeholders, including the state board of education, the office of the superintendent of public instruction, the state board for community and technical colleges, the workforce training and education coordinating board, and the four-year institutions of higher education to improve student transitions and success including but not limited to:

(a) Setting minimum college admission standards for four-year institutions of higher education, including a requirement that coursework in American sign language or an American Indian language satisfies any requirement for instruction in a language other than English that the council or the institutions may establish as a general undergraduate admissions requirement;

(b) Proposing comprehensive policies and programs to encourage students to prepare for, understand how to access, and pursue postsecondary college and

career programs, including specific policies and programs for students with disabilities;

(c) Recommending policies that require coordination between or among sectors such as dual high school-college programs, awarding college credit for advanced high school work, and transfer between two and four-year institutions of higher education or between different four-year institutions of higher education; and

(d) Identifying transitions issues and solutions for students, from high school to postsecondary education including community and technical colleges, four-year institutions of higher education, apprenticeships, training, or workplace education; between two-year and four-year institutions of higher education; and from postsecondary education to career. In addressing these issues the council must recognize that these transitions may occur multiple times as students continue their education.

(8) The council directs the work of the office, which includes administration of student financial aid programs under RCW 28B.76.090, including the state need grant and other scholarships, the Washington advanced college tuition payment program, and work-study programs.

(9) The council may administer state and federal grants and programs including but not limited to those programs that provide incentives for improvements related to increased access and success in postsecondary education.

(10) The council shall protect higher education consumers including:

(a) Approving degree-granting postsecondary institutions consistent with existing statutory criteria;

(b) Establishing minimum criteria to assess whether students who attend proprietary institutions of higher education shall be eligible for the state need grant and other forms of state financial aid.

(i) The criteria shall include retention rates, completion rates, loan default rates, and annual tuition increases, among other criteria for students who receive state need grant as in chapter 28B.92 RCW and any other state financial aid.

(ii) The council may remove proprietary institutions of higher education from eligibility for the state need grant or other form of state financial aid if it finds that the institution or college does not meet minimum criteria.

(iii) The council shall report by December 1, 2014, to the joint higher education committee in section 201 of this act on the outcomes of students receiving state need grants, impacts on meeting the state's higher education goals for educational attainment, and options for prioritization of the state need grant and possible consequences of implementing each option. When examining options for prioritizing the state need grant the council shall consider awarding grants based on need rather than date of application and making awards based on other criteria selected by the council.

(11) The council shall adopt residency requirements by rule.

(12) The council shall arbitrate disputes between and among four-year institutions of higher education and the state board for community and technical colleges at the request of one or more of the institutions involved, or at the request of the governor, or from a resolution adopted by the legislature. The decision of the council shall be binding on the participants in the dispute.

(13) The council may solicit, accept, receive, and administer federal funds or private funds, in trust, or otherwise, and contract with foundations or with for-profit or nonprofit organizations to support the purposes and functions of the council.

(14) The council shall represent the broad public interest above the interests of the individual institutions of higher education.

NEW SECTION. **Sec. 105.** (1) The council shall adopt bylaws and shall meet at least four times each year and at such other times as determined by the chair who shall give reasonable prior notice to the members.

(2) Councilmembers are expected to consistently attend meetings. The chair of the council may remove any member who misses more than two meetings in any calendar year without cause. Any member so removed must be replaced as provided under RCW 28B.77.005.

NEW SECTION. **Sec. 106.** Councilmembers shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the council in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 107.** (1) The council shall employ an executive director. The executive director shall be appointed by the governor from a list of three names submitted by the council. However, the governor may request, and the council shall provide, an additional list or lists from which the governor shall select the executive director. The governor may dismiss the executive director only with the approval of a majority vote of the council. The council, by a majority vote, may dismiss the executive director.

(2) The executive director may employ necessary deputy and assistant directors and other exempt staff under chapter 41.06 RCW, who shall serve at the executive director's pleasure on such terms and conditions as he or she determines. Subject to the provisions of chapter 41.06 RCW, the executive director may appoint and employ such other employees as may be required for the proper discharge of the functions of the council.

NEW SECTION. **Sec. 108.** The council has the authority to adopt rules as necessary to implement this chapter.

Sec. 109. RCW 28B.76.110 and 2004 c 275 s 5 are each amended to read as follows:

The ((~~higher education coordinating board~~)) council is designated as the state commission as provided for in Section 1202 of the education amendments of 1972 (Public Law 92-318), as now or hereafter amended; and shall perform such functions as is necessary to comply with federal directives pertaining to the provisions of such law.

Sec. 110. RCW 28B.76.210 and 2011 1st sp.s. c 11 s 104 are each amended to read as follows:

(1) The ((~~board~~)) council shall ((~~collaborate with the four-year institutions including the council of presidents, the community and technical college system, and when appropriate the workforce training and education coordinating board, the superintendent of public instruction, and the independent higher educational institutions to~~)) identify budget priorities and levels of funding for higher education, including the two and four-year institutions of higher education and

state financial aid programs. It is the intent of the legislature for the council to make budget recommendations for allocations for major policy changes in accordance with priorities set forth in the ten-year plan, but the legislature does not intend for the council to review and make recommendations on individual institutional budgets. It is the intent of the legislature that recommendations from the ((~~board reflect not merely the sum of budget requests from multiple institutions, but prioritized~~)) council prioritize funding needs for the overall system of higher education in accordance with priorities set forth in the ten-year plan. It is also the intent of the legislature that the council's recommendations take into consideration the total per-student funding at similar public institutions of higher education in the global challenge states.

(2) By December of each odd-numbered year, the ((~~board~~)) council shall ((~~distribute guidelines which~~)) outline the ((~~board's~~)) council's fiscal priorities under the ten-year plan that it must distribute to the institutions ((~~and~~)), the state board for community and technical colleges, the office of financial management, and the joint higher education committee.

(a) ((~~The institutions and the state board for community and technical colleges shall submit an outline of their proposed operating budgets to the board no later than July 1st of each even-numbered year. Pursuant to guidelines developed by the board, operating budget outlines submitted by the institutions and the state board for community and technical colleges after January 1, 2007, shall include all policy changes and enhancements that will be requested by the institutions and the state board for community and technical colleges in their respective biennial budget requests. Operating budget outlines shall include a description of each policy enhancement, the dollar amount requested, and the fund source being requested.~~

~~(b)~~)) Capital budget outlines for the two-year institutions shall be submitted to the office of financial management by August 15th of each even-numbered year, and shall include the prioritized ranking of the capital projects being requested, a description of each capital project, and the amount and fund source being requested.

(((~~(c)~~))) (b) Capital budget outlines for the four-year institutions must be submitted to the office of financial management by August 15th of each even-numbered year, and must include: The institutions' priority ranking of the project; the capital budget category within which the project will be submitted to the office of financial management in accordance with RCW 43.88D.010; a description of each capital project; and the amount and fund source being requested.

(((~~(d)~~))) (c) The office of financial management shall reference these reporting requirements in its budget instructions.

(3) The council shall submit recommendations on the operating budget priorities to support the ten-year plan to the office of financial management by October 1st each year, and to the legislature by January 1st each year.

((~~The board shall review and evaluate the operating and capital budget requests from four-year institutions and the community and technical college system based on how the requests align with the board's budget priorities, the missions of the institutions, and the statewide strategic master plan for higher education under RCW 28B.76.200.~~

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

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

~~(b)~~)) (4)(a) The ((~~board~~)) office of financial management shall develop one prioritized list of capital projects for the legislature to consider that includes all of the projects requested by the four-year institutions of higher education that were scored by the office of financial management pursuant to chapter 43.88D RCW, including projects that were previously scored but not funded. The prioritized list of capital projects shall be based on the following priorities in the following order:

(i) Office of financial management scores pursuant to chapter 43.88D RCW;

(ii) Preserving assets;

(iii) Degree production; and

(iv) Maximizing efficient use of instructional space.

(((~~(c)~~))) (b) The ((~~board~~)) office of financial management shall include all of the capital projects requested by the four-year institutions of higher education, except for the minor works projects, in the prioritized list of capital projects provided to the legislature.

(((~~(d)~~))) (c) The form of the prioritized list for capital projects requested by the four-year institutions of higher education shall be provided as one list, ranked in priority order with the highest priority project ranked number "1" through the lowest priority project numbered last. The ranking for the prioritized list of capital projects may not:

(i) Include subpriorities;

(ii) Be organized by category;

(iii) Assume any state bond or building account biennial funding level to prioritize the list; or

(iv) Assume any specific share of projects by institution in the priority list.

(((~~(6)~~))) (5) Institutions and the state board for community and technical colleges shall submit any supplemental capital budget requests and revisions to ((~~the board at the same time they are submitted to the office of financial management. The board shall submit recommendations on the proposed supplemental budget requests to~~)) the office of financial management by November 1st and to the legislature by January 1st.

Sec. 111. RCW 28B.76.230 and 2010 c 245 s 5 are each amended to read as follows:

(1) The ((~~board~~)) council shall develop a comprehensive and ongoing assessment process to analyze the need for additional degrees and programs, additional off-campus centers and locations for degree programs, and consolidation or elimination of programs by the four-year institutions of higher education. ((~~Board~~)) Council recommendations regarding proposed major expansion shall be limited to determinations of whether the major expansion is within the scope indicated in the most recent ((~~strategic master~~)) ten-year plan for higher education or most recent system design plan. Recommendations

regarding existing capital prioritization processes are not within the scope of the evaluation of major expansion. Major expansion and proposed mission changes may be proposed by the ((~~board~~)) council, any public institution of higher education, or by a state or local government.

(2) As part of the needs assessment process, the ((~~board~~)) council shall examine:

(a) Projections of student, employer, and community demand for education and degrees, including liberal arts degrees, on a regional and statewide basis;

(b) Current and projected degree programs and enrollment at public and private institutions of higher education, by location and mode of service delivery;

(c) Data from the workforce training and education coordinating board and the state board for community and technical colleges on the supply and demand for workforce education and certificates and associate degrees; and

(d) Recommendations from the technology transformation task force created in chapter 407, Laws of 2009, and institutions of higher education relative to the strategic and operational use of technology in higher education. These and other reports, reviews, and audits shall allow for: The development of enterprise-wide digital information technology across educational sectors, systems, and delivery methods; the integration and streamlining of administrative tools including but not limited to student information management, financial management, payroll, human resources, data collection, reporting, and analysis; and a determination of the costs of multiple technology platforms, systems, and models.

(3) Every two years the ((~~board~~)) council shall produce, jointly with the state board for community and technical colleges and the workforce training and education coordinating board, an assessment of the number and type of higher education and training credentials required to match employer demand for a skilled and educated workforce. The assessment shall include the number of forecasted net job openings at each level of higher education and training and the number of credentials needed to match the forecast of net job openings.

(4) The ((~~board~~)) council shall determine whether certain major lines of study or types of degrees, including applied degrees or research-oriented degrees, shall be assigned uniquely to some institutions or institutional sectors in order to create centers of excellence that focus resources and expertise.

(5) The following activities are subject to approval by the ((~~board~~)) council:

(a) ((~~New degree programs by a four-year institution;~~

~~(b) Creation of any off-campus program by a four-year institution;~~

~~(c) Purchase or lease of major off-campus facilities by a four-year institution or a community or technical college;~~

~~(d)~~)) Creation of higher education centers and consortia; and

(((~~(e)~~))) (b) New degree programs and creation of off-campus programs by an independent college or university in collaboration with a community or technical college((~~; and~~

~~(f) Applied baccalaureate degree programs developed by colleges under RCW 28B.50.810~~)).

(6) Institutions seeking ((~~board~~)) council approval under this section must demonstrate that the proposal is justified by the needs assessment developed under this section. Institutions must also demonstrate how the proposals align

with or implement the ten-year ((~~statewide strategic master~~)) plan for higher education ((~~under RCW 28B.76.200~~)).

(7) The ((~~board~~)) council shall develop clear guidelines and objective decision-making criteria regarding approval of proposals under this section, which must include review and consultation with the institution and other interested agencies and individuals.

(8) The ((~~board~~)) council shall periodically recommend consolidation or elimination of programs at the four-year institutions of higher education, based on the needs assessment analysis.

(9) In the case of a proposed major expansion or mission change, the needs assessment process under subsection (2) of this section constitutes a threshold inquiry. If the ((~~board~~)) council determines that the need for the proposed major expansion or mission change has not been justified, the inquiry is concluded. If the ((~~board~~)) council determines that the need for the proposed major expansion or mission change has been sufficiently established, the ((~~board~~)) council, in consultation with any directly involved institutions and other interested agencies and individuals, shall proceed to examine the viability of the proposal using criteria including, but not limited to:

(a) The specific scope of the project including the capital investment requirements, the number of full-time equivalent students anticipated, and the number of academic programs planned;

(b) The existence of an efficient and sustainable financial plan;

(c) The extent to which existing resources can be leveraged;

(d) The current and five-year projected student population, faculty, and staff to support the proposed programs, institution, or innovation;

(e) The plans to accommodate expected growth over a twenty-year time frame;

(f) The extent to which new or existing partnerships and collaborations are a part of the proposal; and

(g) The feasibility of any proposed innovations to accelerate degree production.

(10) After the ((~~board~~)) council completes its evaluation of the proposed major expansion or mission change using the needs assessment under subsection (2) of this section and viability determination under subsection (9) of this section, the ((~~board~~)) council shall make a recommendation to either proceed, modify, or not proceed with the proposed major expansion or mission change. The ((~~board's~~)) council's recommendation shall be presented to the governor and the legislature.

Sec. 112. RCW 28B.76.235 and 2011 c 77 s 4 are each amended to read as follows:

The ((~~higher education coordinating board~~)) council shall annually publish on its web site the agreed-upon list of high school courses qualifying for postsecondary credit under RCW 28B.10.053 and qualifying examination ((~~qualifying~~)) scores and demonstrated competencies meeting the postsecondary requirements for a certificate or technical degree, a two-year academic transfer degree, or the lower division requirements for a baccalaureate degree.

Sec. 113. RCW 28B.76.240 and 2004 c 275 s 10 are each amended to read as follows:

The ((~~board~~)) council shall adopt statewide transfer and articulation policies that ensure efficient transfer of credits and courses across public two and four-year institutions of higher education. The intent of the policies is to create a statewide system of articulation and alignment between two and four-year institutions of higher education. Policies may address but are not limited to creation of a statewide system of course equivalency, creation of transfer associate degrees, statewide articulation agreements, applicability of technical courses toward baccalaureate degrees, and other issues. The institutions of higher education and the state board for community and technical colleges shall cooperate with the ((~~board~~)) council in developing the statewide policies and shall provide support and staff resources as necessary to assist in maintaining the policies. ((~~The board shall submit a progress report to the higher education committees of the senate and house of representatives by December 1, 2006, by which time the legislature expects measurable improvement in alignment and transfer efficiency.~~))

Sec. 114. RCW 28B.76.2401 and 2004 c 55 s 5 are each reenacted and amended to read as follows:

The statewide transfer of credit policy and agreement must be designed to facilitate the transfer of students and the evaluation of transcripts, to better serve persons seeking information about courses and programs, to aid in academic planning, and to improve the review and evaluation of academic programs in the state institutions of higher education. The statewide transfer of credit policy and agreement must not require or encourage the standardization of course content or prescribe course content or the credit value assigned by any institution to the course. Policies adopted by public four-year institutions of higher education concerning the transfer of lower division credit must treat students transferring from public community colleges the same as students transferring from public four-year institutions of higher education.

Sec. 115. RCW 28B.76.270 and 2011 1st sp.s. c 10 s 8 are each amended to read as follows:

(1) ((~~The board shall establish~~)) An accountability monitoring and reporting system is established as part of a continuing effort to make meaningful and substantial progress towards the achievement of long-term performance goals in higher education.

(2) To provide consistent, easily understood data among the public four-year institutions of higher education within Washington and in other states, the following data must be reported to the education data center annually by December 1st, and at a minimum include data recommended by a national organization representing state chief executives. The ((~~board~~)) education data center in consultation with the council may change the data requirements to be consistent with best practices across the country. This data must, to the maximum extent possible, be disaggregated by race and ethnicity, gender, state and county of origin, age, and socioeconomic status, and include the following for the four-year institutions of higher education:

(a) Bachelor's degrees awarded;

(b) Graduate and professional degrees awarded;

(c) Graduation rates: The number and percentage of students who graduate within four years for bachelor's degrees and within the extended time, which is six years for bachelor's degrees;

(d) Transfer rates: The annual number and percentage of students who transfer from a two-year to a four-year institution of higher education;

(e) Time and credits to degree: The average length of time in years and average number of credits that graduating students took to earn a bachelor's degree;

(f) Enrollment in remedial education: The number and percentage of entering first-time undergraduate students who place into and enroll in remedial mathematics, English, or both;

(g) Success beyond remedial education: The number and percentage of entering first-time undergraduate students who complete entry college-level math and English courses within the first two consecutive academic years;

(h) Credit accumulation: The number and percentage of first-time undergraduate students completing two quarters or one semester worth of credit during their first academic year;

(i) Retention rates: The number and percentage of entering undergraduate students who enroll consecutively from fall-to-spring and fall-to-fall at an institution of higher education;

(j) Course completion: The percentage of credit hours completed out of those attempted during an academic year;

(k) Program participation and degree completion rates in bachelor and advanced degree programs in the sciences, which includes agriculture and natural resources, biology and biomedical sciences, computer and information sciences, engineering and engineering technologies, health professions and clinical sciences, mathematics and statistics, and physical sciences and science technologies, including participation and degree completion rates for students from traditionally underrepresented populations;

(l) Annual enrollment: Annual unduplicated number of students enrolled over a twelve-month period at institutions of higher education including by student level;

(m) Annual first-time enrollment: Total first-time students enrolled in a four-year institution of higher education;

(n) Completion ratio: Annual ratio of undergraduate and graduate degrees and certificates, of at least one year in expected length, awarded per one hundred full-time equivalent undergraduate students at the state level;

(o) Market penetration: Annual ratio of undergraduate and graduate degrees and certificates, of at least one year in program length, awarded relative to the state's population age eighteen to twenty-four years old with a high school diploma;

(p) Student debt load: Median three-year distribution of debt load, excluding private loans or debts incurred before coming to the institution;

(q) Data related to enrollment, completion rates, participation rates, and debt load shall be disaggregated for students in the following income brackets to the maximum extent possible:

(i) Up to seventy percent of the median family income;

(ii) Between seventy-one percent and one hundred twenty-five percent of the median family income; and

(iii) Above one hundred twenty-five percent of the median family income; and

(r) Yearly percentage increases in the average cost of undergraduate instruction.

(3) Four-year institutions of higher education must count all students when collecting data, not only first-time, full-time freshmen.

(4) ((~~Based on guidelines prepared by the board, each four-year institution and the state board for community and technical colleges shall submit a biennial plan to achieve measurable and specific improvements each academic year on statewide and institution-specific performance measures. Plans shall be submitted to the board along with the biennial budget requests from the institutions and the state board for community and technical colleges. Performance measures established for the community and technical colleges shall reflect the role and mission of the colleges.~~

~~(5) The board shall approve biennial performance targets for each four-year institution and for the community and technical college system and shall review actual achievements annually. The state board for community and technical colleges shall set biennial performance targets for each college or district, where appropriate.~~

~~(6) The board shall submit a report on progress towards the statewide goals, with recommendations for the ensuing biennium, to the fiscal and higher education committees of the legislature along with the board's biennial budget recommendations.~~

~~(7) The board, in collaboration with the four-year institutions and the state board for community and technical colleges, shall periodically review and update the accountability monitoring and reporting system.~~

~~(8) The board shall develop measurable indicators and benchmarks for its own performance regarding cost, quantity, quality, and timeliness and including the performance of committees and advisory groups convened under this chapter to accomplish such tasks as improving transfer and articulation, improving articulation with the K-12 education system, measuring educational costs, or developing data protocols. The board shall submit its accountability plan to the legislature concurrently with the biennial report on institution progress.~~

~~(9)~~)) In conjunction with the office of financial management, all four-year institutions of higher education must display the data described in subsection (2) of this section in a uniform dashboard format on the office of financial management's web site no later than December 1, 2011, and updated thereafter annually by December 1st. To the maximum extent possible, the information must be viewable by race and ethnicity, gender, state and county of origin, age, and socioeconomic status. The information may be tailored to meet the needs of various target audiences such as students, researchers, and the general public.

(5) The council shall use performance data from the education data center for the purposes of strategic planning, to report on progress toward achieving statewide goals, and to develop priorities proposed in the ten-year plan for higher education.

Sec. 116. RCW 28B.76.325 and 2011 1st sp.s. c 10 s 28 are each amended to read as follows:

(1) The ((~~board~~)) council, the state board for community and technical colleges, the council of presidents, the four-year institutions of higher education,

the private independent higher education institutions, and the private career schools shall collaborate to carry out the following goals:

(a) Increase the number of students who receive academic credit for prior learning and the number of students who receive credit for prior learning that counts towards their major or towards earning their degree, certificate, or credential, while ensuring that credit is awarded only for high quality, course-level competencies;

(b) Increase the number and type of academic credits accepted for prior learning in institutions of higher education, while ensuring that credit is awarded only for high quality, course-level competencies;

(c) Develop transparent policies and practices in awarding academic credit for prior learning;

(d) Improve prior learning assessment practices across the institutions of higher education;

(e) Create tools to develop faculty and staff knowledge and expertise in awarding credit for prior learning and to share exemplary policies and practices among institutions of higher education;

(f) Develop articulation agreements when patterns of credit for prior learning are identified for particular programs and pathways; and

(g) Develop outcome measures to track progress on the goals outlined in this section.

(2) The ((~~board~~)) council shall convene the academic credit for prior learning work group.

(a) The work group must include the following members:

(i) One representative from the ((~~higher education coordinating board~~)) council;

(ii) One representative from the state board for community and technical colleges;

(iii) One representative from the council of presidents;

(iv) Two representatives each from faculty from two and four-year institutions of higher education;

(v) Two representatives from private career schools;

(vi) Two representatives from business; and

(vii) Two representatives from labor.

(b) The purpose of the work group is to coordinate and implement the goals in subsection (1) of this section.

(3) The ((~~board~~)) council shall report progress on the goals and outcome measures annually by December 31st.

(4) For the purposes of this section, "prior learning" means the knowledge and skills gained through work and life experience; through military training and experience; and through formal and informal education and training from in-state and out-of-state institutions including foreign institutions.

Sec. 117. RCW 28B.76.510 and 2011 1st sp.s. c 11 s 108 are each amended to read as follows:

The ((~~office shall~~)) council may administer any federal act pertaining to higher education which is not administered by another state agency.

Sec. 118. RCW 28B.76.695 and 2011 c 146 s 2 are each amended to read as follows:

(1) The ((~~board~~)) council may:

(a) Recognize and endorse online, competency-based education as an important component of Washington's higher education system;

(b) Work to eliminate unnecessary barriers to the delivery of online competency-based education by Western Governors University -Washington; and

(c) Work with Western Governors University - Washington, as appropriate, to integrate its academic programs and services into Washington higher education policy and strategy.

(2) The ((~~board~~)) council shall work with Western Governors University - Washington to create data-sharing processes to assess the institution's performance and determine the extent to which it helps the state achieve the goals of the current ((~~statewide strategic master~~)) ten-year plan for higher education.

(3) The ((~~board~~)) council shall adopt rules and policies to implement this section and that require ((~~board~~)) council consultation and approval before:

(a) Modifications of contractual terms or relationships between the state and the institution of higher education; or

(b) Changes or modifications in the nonprofit status of the institution of higher education.

NEW SECTION. **Sec. 119.** (1) The state board for community and technical colleges, in consultation with the student achievement council, shall regularly review higher education accountability measures, assess whether any of the measures for four-year institutions of higher education in RCW 28B.76.270(2) (as recodified by this act) should be applied as performance measures for community and technical colleges, and whether performance indicators for the community and technical colleges should be added to the data dashboard in RCW 28B.76.270(4) (as recodified by this act). The board shall report recommendations regarding appropriate changes to required community and technical college accountability measures to the governor and the legislature by December 1, 2012.

(2) This section expires August 1, 2013.

NEW SECTION. **Sec. 120.** RCW 28B.76.290 (Coordination of activities with segments of higher education) and 1993 c 77 s 2, 1992 c 60 s 3, 1988 c 172 s 4, & 1985 c 370 s 6 are each repealed.

NEW SECTION. **Sec. 121.** A new section is added to chapter 28B.77 RCW to read as follows:

(1) All powers, duties, and functions of the higher education coordinating board are transferred to the student achievement council. All references to the executive director or the higher education coordinating board in the Revised Code of Washington shall be construed to mean the executive director or the student achievement council when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the higher education coordinating board pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the student achievement council. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the higher

education coordinating board in carrying out the powers, functions, and duties transferred shall be made available to the student achievement council. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the student achievement council.

(b) Any appropriations made to the higher education coordinating board for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the student achievement council.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the higher education coordinating board necessary to the assigned functions of the student achievement council are transferred to the jurisdiction of the student achievement council subject to review by the executive director of the student achievement council. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the student achievement council to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the higher education coordinating board pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the student achievement council. All existing contracts and obligations shall remain in full force and shall be performed by the student achievement council.

(5) The transfer of the powers, duties, and functions of the higher education coordinating board shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the higher education coordinating board assigned to the student achievement council under this section whose positions are within an existing bargaining unit description at the student achievement council shall become a part of the existing bargaining unit at the student achievement council and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

PART II
JOINT HIGHER EDUCATION COMMITTEE

NEW SECTION. **Sec. 201.** A new section is added to chapter 44.04 RCW to read as follows:

(1) A joint higher education committee is created.

(2) The purpose of the joint higher education committee is to:

(a) By December 1, 2012, and annually thereafter, review the work of the student achievement council and provide legislative feedback;

(b) Engage with the student achievement council and the higher education community to create greater communication, coordination, and alignment between the higher education system and the expectations of the legislature; and

(c) Provide recommendations for higher education policy, including proposed legislation, to the higher education and fiscal committees of the legislature.

NEW SECTION. **Sec. 202.** A new section is added to chapter 44.04 RCW to read as follows:

(1) The joint higher education committee shall consist of the following members:

(a) Four members of the house of representatives, two each appointed by the leadership of the two largest caucuses, with at least one member from each caucus who is a member of the house of representatives ways and means committee and at least one member from each caucus who is a member of the house of representatives higher education committee; and

(b) Four members of the senate, two each appointed by the leadership of the two largest caucuses, with at least one member from each caucus who is a member of the senate ways and means committee and at least one member from each caucus who is a member of the senate higher education and workforce development committee.

(2) All members must be appointed by July 1, 2012, and must serve a term of no less than two years.

(3) Vacancies on the joint higher education committee shall be filled by appointment by either the president of the senate or the speaker of the house of representatives. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated.

(4) The joint higher education committee shall appoint its own cochairs, representing two different parties and the two chambers of the legislature.

NEW SECTION. **Sec. 203.** A new section is added to chapter 44.04 RCW to read as follows:

(1) The joint higher education committee shall meet at least twice annually after the conclusion of the legislative session.

(2) The members of the joint higher education committee shall serve without additional compensation, but shall be reimbursed in accordance with RCW 44.04.120 while attending meetings of the joint higher education committee.

(3) The joint higher education committee shall adopt rules and procedures for its operations.

(4) Staff support for the joint higher education committee must be provided by the senate committee services and the house of representatives office of program research.

Sec. 204. RCW 44.04.260 and 2005 c 319 s 112 are each amended to read as follows:

The joint legislative audit and review committee, the joint transportation committee, the select committee on pension policy, the legislative evaluation and accountability program committee, the joint higher education committee, and the joint legislative systems committee are subject to such operational policies, procedures, and oversight as are deemed necessary by the facilities and operations committee of the senate and the executive rules committee of the house of representatives to ensure operational adequacy of the agencies of the legislative branch. As used in this section, "operational policies, procedures, and oversight" includes the development process of biennial budgets, contracting procedures, personnel policies, and compensation plans, selection of a chief administrator, facilities, and expenditures. This section does not grant oversight authority to the facilities and operations committee of the senate over any standing committee of the house of representatives or oversight authority to the executive rules committee of the house of representatives over any standing committee of the senate.

Sec. 205. RCW 43.88.230 and 2005 c 319 s 109 are each amended to read as follows:

For the purposes of this chapter, the statute law committee, the joint legislative audit and review committee, the joint transportation committee, the legislative evaluation and accountability program committee, the joint higher education committee, the office of state actuary, and all legislative standing committees of both houses shall be deemed a part of the legislative branch of state government.

PART III
EDUCATION DATA CENTER

NEW SECTION. **Sec. 301.** A new section is added to chapter 43.41 RCW to read as follows:

The education data center in consultation with institutions of higher education as defined in RCW 28B.10.016 shall annually develop information on the approximate amount of state support that students receive. For students at state-supported colleges and universities, the information must include the approximate level of support received by students in each tuition category. That information may include consideration of the following: Expenditures included in the educational cost formula; revenue forgiven from waived tuition and fees; state-funded financial aid awarded to students at public institutions; and all or a portion of appropriated amounts not reflected in the educational cost formula for institutional programs and services that may affect or enhance the educational experience of students at a particular institution. For students attending a private college, university, or proprietary school, the information shall include the amount of state-funded financial aid awarded to students attending the institution.

Sec. 302. RCW 28B.76.280 and 2010 1st sp.s. c 7 s 58 are each amended to read as follows:

(1)(a) In consultation with the education data center, institutions of higher education, and state education agencies, the ((~~board~~)) council shall identify the data needed to carry out its responsibilities for policy analysis((~~, accountability, program improvements,~~)) and public information. The primary goals of the ((~~board's~~)) council's data collection and research are to describe how students and other beneficiaries of higher education are being served; ((~~to support higher education accountability~~)) to compare and contrast the state of Washington's higher education system with the rest of the nation; and to assist state policymakers and institutions in making policy decisions.

(b) For the council, assistance to state policymakers and institutions of higher education in making policy decisions includes but is not limited to annual reporting of a national comparison of tuition and fees.

(2) ((~~The board shall identify the most cost-effective manner for the board to collect data or access existing data. The board shall develop research priorities, policies, and common definitions to maximize the reliability and consistency of data across institutions.~~

~~(3) Specific protocols shall be developed by the board to protect the privacy of individual student records while ensuring the availability of student data for legitimate research purposes.~~)) One of the goals of the education data center's data collection and research for higher education is to support higher education accountability. For the education data center, assistance to state policymakers and institutions of higher education in making policy decisions includes but is not limited to regular completion of:

(a) Educational cost study reports as provided in RCW 28B.76.310 (as recodified by this act) and information on state support received by students as provided in section 301 of this act; and

(b) Per-student funding at similar public institutions of higher education in the global challenge states.

Sec. 303. RCW 28B.76.310 and 2011 1st sp.s. c 11 s 105 are each amended to read as follows:

(1) The ((~~board~~)) education data center, in consultation with the house of representatives and senate committees responsible for higher education, the respective fiscal committees of the house of representatives and senate, the office of financial management, the state board for community and technical colleges, and the state institutions of higher education, shall develop standardized methods and protocols for measuring the undergraduate and graduate educational costs for the state universities, regional universities, and community colleges, including but not limited to the costs of instruction, costs to provide degrees in specific fields, and costs for precollege remediation.

(2) The institutions of higher education shall participate in the development of cost study methods and shall provide all necessary data in a timely fashion consistent with the protocols developed.

(3) Beginning December 1, 2012, and each December 1st thereafter, the center must provide cost study reports intended to meet the information needs of the governor's office and the legislature and the requirements of section 301 of this act.

NEW SECTION. **Sec. 304.** A new section is added to chapter 43.41 RCW to read as follows:

The education data center must determine and report on amounts constituting undergraduate and graduate educational costs to the several boards of regents and trustees for the state institutions of higher education by November 10th of each even-numbered year.

PART IV
OFFICE OF STUDENT FINANCIAL ASSISTANCE

Sec. 401. RCW 28B.76.090 and 2011 1st sp.s. c 11 s 102 are each amended to read as follows:

(1) The office of student financial assistance is created within and under the direction of the student achievement council.

(2) The purpose of the office is to administer state and federal financial aid and other education services programs, including the advanced college tuition payment program in chapter 28B.95 RCW, in a cost-effective manner.

((~~(3) The office shall employ a director who shall serve at the pleasure of the governor and shall administer the provisions of this chapter. The director shall: (a) Employ necessary deputy and assistant directors and other exempt staff under chapter 41.06 RCW who shall serve at his or her pleasure on such terms and conditions as he or she determines and (b) subject to the provisions of chapter 41.06 RCW, appoint and employ such other employees as may be required for the proper discharge of the functions of the office.~~))

Sec. 402. RCW 28B.118.010 and 2011 1st sp.s. c 11 s 226 are each amended to read as follows:

The office of student financial assistance shall design the Washington college bound scholarship program in accordance with this section and in alignment with the state need grant program in chapter 28B.92 RCW unless otherwise provided in this section.

(1) "Eligible students" are those students who qualify for free or reduced-price lunches. If a student qualifies in the seventh grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter.

(2) Eligible students shall be notified of their eligibility for the Washington college bound scholarship program beginning in their seventh grade year. Students shall also be notified of the requirements for award of the scholarship.

(3) To be eligible for a Washington college bound scholarship, a student must sign a pledge during seventh or eighth grade that includes a commitment to graduate from high school with at least a C average and with no felony convictions. Students who were in the eighth grade during the 2007-08 school year may sign the pledge during the 2008-09 school year. The pledge must be witnessed by a parent or guardian and forwarded to the office of student financial assistance by mail or electronically, as indicated on the pledge form.

(4)(a) Scholarships shall be awarded to eligible students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, or who received home-based instruction under chapter 28A.200 RCW.

(b) To receive the Washington college bound scholarship, a student must graduate with at least a "C" average from a public high school or an approved

private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a resident student as defined in RCW 28B.15.012(2) (a) through (d).

(5) A student's family income will be assessed upon graduation before awarding the scholarship.

(6) If at graduation from high school the student's family income does not exceed sixty-five percent of the state median family income, scholarship award amounts shall be as provided in this section.

(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) the difference between the student's tuition and required fees, less the value of any state-funded grant, scholarship, or waiver assistance the student receives; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington.

(7) Recipients may receive no more than four full-time years' worth of scholarship awards.

(8) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans, and, at the student's option, work-study award before any other grants or scholarships are reduced.

(9) The first scholarships shall be awarded to students graduating in 2012.

(10) The state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed. These tuition units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

(11) The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.

(12) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

PART V
REFERENCES TO THE STUDENT ACHIEVEMENT COUNCIL

Sec. 501. RCW 9A.60.070 and 2006 c 234 s 2 are each amended to read as follows:

(1) A person is guilty of issuing a false academic credential if the person knowingly:

(a) Grants or awards a false academic credential or offers to grant or award a false academic credential in violation of this section;

(b) Represents that a credit earned or granted by the person in violation of this section can be applied toward a credential offered by another person;

(c) Grants or offers to grant a credit for which a representation as described in (b) of this subsection is made; or

(d) Solicits another person to seek a credential or to earn a credit the person knows is offered in violation of this section.

(2) A person is guilty of knowingly using a false academic credential if the person knowingly uses a false academic credential or falsely claims to have a credential issued by an institution of higher education that is accredited by an accrediting association recognized as such by rule of the ((~~higher education coordinating board~~)) student achievement council:

(a) In a written or oral advertisement or other promotion of a business; or

(b) With the intent to:

(i) Obtain employment;

(ii) Obtain a license or certificate to practice a trade, profession, or occupation;

(iii) Obtain a promotion, compensation or other benefit, or an increase in compensation or other benefit, in employment or in the practice of a trade, profession, or occupation;

(iv) Obtain admission to an educational program in this state; or

(v) Gain a position in government with authority over another person, regardless of whether the person receives compensation for the position.

(3) The definitions in this subsection apply throughout this section and RCW 28B.85.220.

(a) "False academic credential" means a document that provides evidence or demonstrates completion of an academic or professional course of instruction beyond the secondary level that results in the attainment of an academic certificate, degree, or rank, and that is not issued by a person or entity that: (i) Is an entity accredited by an agency recognized as such by rule of the ((~~higher education coordinating board~~)) student achievement council or has the international equivalents of such accreditation; or (ii) is an entity authorized as a degree-granting institution by the ((~~higher education coordinating board~~)) student achievement council; or (iii) is an entity exempt from the requirements of authorization as a degree-granting institution by the ((~~higher education coordinating board~~)) student achievement council; or (iv) is an entity that has been granted a waiver by the ((~~higher education coordinating board~~)) student achievement council from the requirements of authorization by the ((~~board~~)) council. Such documents include, but are not limited to, academic certificates, degrees, coursework, degree credits, transcripts, or certification of completion of a degree.

(b) "Grant" means award, bestow, confer, convey, sell, or give.

(c) "Offer," in addition to its usual meanings, means advertise, publicize, or solicit.

(d) "Operate" includes but is not limited to the following:

(i) Offering courses in person, by correspondence, or by electronic media at or to any Washington location for degree credit;

(ii) Granting or offering to grant degrees in Washington;

(iii) Maintaining or advertising a Washington location, mailing address, computer server, or telephone number, for any purpose, other than for contact

with the institution's former students for any legitimate purpose related to the students having attended the institution.

(4) Issuing a false academic credential is a class C felony.

(5) Knowingly using a false academic credential is a gross misdemeanor.

Sec. 502. RCW 18.260.110 and 2008 c 150 s 1 are each amended to read as follows:

Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice of a dental assistant in the discharge of official duties by dental assistants in the United States federal services on federal reservations, including but not limited to the armed services, coast guard, public health service, veterans' bureau, or bureau of Indian affairs;

(2) Expanded function dental auxiliary education and training programs approved by the commission and the practice as an expanded function dental auxiliary by students in expanded function dental auxiliary education and training programs approved by the commission, when acting under the direction and supervision of persons licensed under chapter 18.29 or 18.32 RCW;

(3) Dental assistant education and training programs, and the practice of dental assisting by students in dental assistant education and training programs approved by the commission or offered at a school approved or licensed by the workforce training and education coordinating board, ((~~higher education coordinating board~~)) student achievement council, state board for community and technical colleges, or Washington state skill centers certified by the office of the superintendent of public instruction, when acting under the direction and supervision of persons registered or licensed under this chapter or chapter 18.29 or 18.32 RCW; or

(4) The practice of a volunteer dental assistant providing services under the supervision of a licensed dentist in a charitable dental clinic, as approved by the commission in rule.

Sec. 503. RCW 28A.175.130 and 2011 c 288 s 2 are each amended to read as follows:

(1) The pay for actual student success (PASS) program is created under this section and RCW 28A.175.135 through 28A.175.160 to invest in proven dropout prevention and intervention programs as provided in RCW 28A.175.135 and provide a financial award for high schools that demonstrate improvement in the dropout prevention indicators established under RCW 28A.175.140. The legislature finds that increased accumulation of credits and reductions in incidents of student discipline lead to improved graduation rates.

(2) The office of the superintendent of public instruction, the workforce training and education coordinating board, the building bridges working group, the ((~~higher education coordinating board~~)) student achievement council, and the college scholarship organization under RCW 28A.175.135(4) shall collaborate to assure that the programs under RCW 28A.175.135 operate systematically and are expanded to include as many additional students and schools as possible.

Sec. 504. RCW 28A.230.100 and 2006 c 263 s 402 and 2006 c 114 s 4 are each reenacted and amended to read as follows:

The superintendent of public instruction, in consultation with the ((~~higher education coordinating board~~)) student achievement council, the state board for community and technical colleges, and the workforce training and education

coordinating board, shall adopt rules pursuant to chapter 34.05 RCW, to implement the course requirements set forth in RCW 28A.230.090. The rules shall include, as the superintendent deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW 28A.230.090 and special alterations of the course requirements in RCW 28A.230.090. In developing such rules the superintendent shall recognize the relevance of vocational and applied courses and allow such courses to fulfill in whole or in part the courses required for graduation in RCW 28A.230.090, as determined by the high school or school district in accordance with RCW 28A.230.097. The rules may include provisions for competency testing in lieu of such courses required for graduation in RCW 28A.230.090 or demonstration of specific skill proficiency or understanding of concepts through work or experience.

Sec. 505. RCW 28A.600.280 and 2009 c 450 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction, in collaboration with the state board for community and technical colleges, the Washington state apprenticeship and training council, the workforce training and education coordinating board, the ((~~higher education coordinating board~~)) student achievement council, ((~~and~~)) the public baccalaureate institutions, and the education data center, shall report by September 1, 2010, and annually thereafter to the education and higher education committees of the legislature regarding participation in dual credit programs. The report shall include:

(a) Data about student participation rates and academic performance including but not limited to running start, college in the high school, tech prep, international baccalaureate, advanced placement, and running start for the trades;

(b) Data on the total unduplicated head count of students enrolled in at least one dual credit program course; and

(c) The percentage of students who enrolled in at least one dual credit program as percent of all students enrolled in grades nine through twelve.

(2) Data on student participation shall be disaggregated by race, ethnicity, gender, and receipt of free or reduced-price lunch.

Sec. 506. RCW 28A.600.390 and 1994 c 205 s 10 are each amended to read as follows:

The superintendent of public instruction, the state board for community and technical colleges, and the ((~~higher education coordinating board~~)) student achievement council shall jointly develop and adopt rules governing RCW 28A.600.300 through 28A.600.380, if rules are necessary. The rules shall be written to encourage the maximum use of the program and shall not narrow or limit the enrollment options under RCW 28A.600.300 through 28A.600.380.

Sec. 507. RCW 28A.660.050 and 2011 1st sp.s. c 11 s 134 are each amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the ((~~office of student financial assistance~~)) student achievement council. In administering the programs, the ((~~office~~)) council has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The ((~~board~~)) council may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by RCW 28A.660.042. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The ((~~board~~)) student achievement council may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers. In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement shall pursue an endorsement in middle level mathematics or science, or both; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The ((~~office of student financial assistance~~)) student achievement council shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The ((~~office of student financial assistance~~)) student achievement council may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

Sec. 508. RCW 28B.07.040 and 1985 c 370 s 49 are each amended to read as follows:

The authority is authorized and empowered to do the following, on such terms, with such security and undertakings, subject to such conditions, and in return for such consideration, as the authority shall determine in its discretion to be necessary, useful, or convenient in accomplishing the purposes of this chapter:

(1) To promulgate rules in accordance with chapter 34.05 RCW;

(2) To adopt an official seal and to alter the same at pleasure;

(3) To maintain an office at any place or places as the authority may designate;

(4) To sue and be sued in its own name, and to plead and be impleaded;

(5) To make and execute agreements with participants and others and all other instruments necessary, useful, or convenient for the accomplishment of the purposes of this chapter;

(6) To provide long-term or short-term financing or refinancing to participants for project costs, by way of loan, lease, conditional sales contract, mortgage, option to purchase, or other financing or security device or any such combination;

(7) If, in order to provide to participants the financing or refinancing of project costs described in subsection (6) of this section, the authority deems it necessary or convenient for it to own a project or projects or any part of a project or projects, for any period of time, it may acquire, contract, improve, alter, rehabilitate, repair, manage, operate, mortgage, subject to a security interest, lease, sell, or convey the project;

(8) To fix, revise from time to time, and charge and collect from participants and others rates, rents, fees, charges, and repayments as necessary to fully and timely reimburse the authority for all expenses incurred by it in providing the financing and refinancing and other services under this section and for the repayment, when due, of all the principal of, redemption premium, if any, and interest on all bonds issued under this chapter to provide the financing, refinancing, and services;

(9) To accept and receive funds, grants, gifts, pledges, guarantees, mortgages, trust deeds, and other security instruments, and property from the federal government or the state or other public body, entity, or agency and from any public or private institution, association, corporation, or organization, including participants. It shall not accept or receive from the state or any taxing agency any money derived from taxes, except money to be devoted to the purposes of a project of the state or of a taxing agency;

(10) To open and maintain a bank account or accounts in one or more qualified public depositories in this state and to deposit all or any part of authority funds therein;

(11) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, an executive director, and such other employees and agents as may be necessary in its judgment to carry out the purposes of this chapter, and to fix their compensation;

(12) To provide financing or refinancing to two or more participants for a single project or for several projects in such combinations as the authority deems necessary, useful, or convenient;

(13) To charge to and equitably apportion among participants the administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter;

(14) To consult with the ((~~higher education coordinating board~~)) student achievement council to determine project priorities under the purposes of this chapter; and

(15) To do all other things necessary, useful, or convenient to carry out the purposes of this chapter.

In the exercise of any of these powers, the authority shall incur no expense or liability which shall be an obligation, either general or special, of the state, or a general obligation of the authority, and shall pay no expense or liability from funds other than funds of the authority. Funds of the state shall not be used for such purpose.

Sec. 509. RCW 28B.10.020 and 2004 c 275 s 47 are each amended to read as follows:

The boards of regents of the University of Washington and Washington State University, respectively, and the boards of trustees of Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College, respectively, shall have the power and authority to

acquire by exchange, gift, purchase, lease, or condemnation in the manner provided by chapter 8.04 RCW for condemnation of property for public use, such lands, real estate and other property, and interests therein as they may deem necessary for the use of said institutions respectively. However, the purchase or lease of major off-campus facilities is subject to the approval of the ((~~higher education coordinating board~~)) student achievement council under RCW 28B.76.230 (as recodified by this act).

Sec. 510. RCW 28B.10.053 and 2011 2nd sp.s. c 3 s 1 are each amended to read as follows:

(1) By December 1, 2011, and by June of each odd-numbered year thereafter, the institutions of higher education shall collaboratively develop a master list of postsecondary courses that can be fulfilled by taking the advanced placement, international baccalaureate, or other recognized college-level proficiency examinations, including but not limited to examinations by a national multidisciplinary science, technology, engineering, and mathematics program, and meeting the qualifying examination score or demonstrated competencies for lower division general education requirements or postsecondary professional technical requirements. The master list of postsecondary courses fulfilled by proficiency examinations or demonstrated competencies are those that fulfill lower division general education requirements or career and technical education requirements and qualify for postsecondary credit. From the master list, each institution shall create and publish a list of its courses that can be satisfied by successful proficiency examination scores or demonstrated competencies for lower division general education requirements or postsecondary professional technical requirements. The qualifying examination scores and demonstrated competencies shall be included in the published list. The requirements to develop a master list under this section do not apply if an institution has a clearly published policy of awarding credit for the advanced placement, international baccalaureate, or other recognized college-level placement exams and does not require those credits to meet specific course requirements but generally applies those credits towards degree requirements.

(2) To the maximum extent possible, institutions of higher education shall agree on examination qualifying scores and demonstrated competencies for the credits or courses under subsection (3) of this section, with scores equivalent to qualified or well-qualified. Nothing in this subsection shall prevent an institution of higher education from adopting policies using higher scores for additional purposes.

(3) Each institution of higher education, in designing its certificate, technical degree program, two-year academic transfer program, or freshman and sophomore courses of a baccalaureate program or baccalaureate degree, must recognize the equivalencies of at least one year of course credit and maximize the application of the credits toward lower division general education requirements that can be earned through successfully demonstrating proficiency on examinations, including but not limited to advanced placement and international baccalaureate examinations. The successful completion of the examination and the award of credit shall be noted on the student's college transcript.

(4) Each institution of higher education must clearly include in its admissions materials and on its web site the credits or the institution's list of

postsecondary courses that can be fulfilled by proficiency examinations or demonstrated competencies and the agreed-upon examination scores and demonstrated competencies that qualify for postsecondary credit. Each institution must provide the information to the ((~~higher education coordinating board~~)) student achievement council and state board for community and technical colleges in a form that the superintendent of public instruction is able to distribute to school districts.

Sec. 511. RCW 28B.10.118 and 2011 c 108 s 2 are each amended to read as follows:

(1) State universities, regional universities, and The Evergreen State College may develop accelerated baccalaureate degree programs that will allow academically qualified students to obtain a baccalaureate degree in three years without attending summer classes or enrolling in more than a full-time class load during the regular academic year. The programs must allow academically qualified students to begin coursework within their academic field during their first term or semester of enrollment.

(2) The state universities, regional universities, and The Evergreen State College shall report on their plans for the accelerated baccalaureate degree programs to the ((~~higher education coordinating board~~)) student achievement council for approval.

Sec. 512. RCW 28B.10.400 and 2011 1st sp.s. c 47 s 2 are each amended to read as follows:

(1) The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, the state board for community and technical colleges, and the ((~~higher education coordinating board~~)) student achievement council are authorized and empowered:

(a) To assist the faculties and such other employees exempt from civil service pursuant to RCW 41.06.070 (1)(((~~(cc)~~))) (z) and (2) as any such board may designate in the purchase of old age annuities or retirement income plans under such rules as any such board may prescribe, subject to the restrictions in subsection (2) of this section. County agricultural agents, home demonstration agents, 4-H club agents, and assistant county agricultural agents paid jointly by the Washington State University and the several counties shall be deemed to be full-time employees of the Washington State University for the purposes of this section;

(b) To provide, under such rules as any such board may prescribe for the faculty members or other employees exempt from civil service pursuant to RCW 41.06.070 (1)(((~~(cc)~~))) (z) and (2) under its supervision, for the retirement of any such faculty member or other exempt employee on account of age or condition of health, retirement on account of age to be not earlier than the sixty-fifth birthday: PROVIDED, That such faculty member or such other exempt employee may elect to retire at the earliest age specified for retirement by federal social security law: PROVIDED FURTHER, That any supplemental payment authorized by (c) of this subsection and paid as a result of retirement earlier than age sixty-five shall be at an actuarially reduced rate; and shall be provided only to those persons who participate in an annuity or retirement income plan under (a) of this subsection prior to July 1, 2011;

(c) To pay only to those persons who participate in an annuity or retirement income plan under (a) of this subsection prior to July 1, 2011, or to his or her designated beneficiary(s), each year after his or her retirement, a supplemental amount which, when added to the amount of such annuity or retirement income plan, or retirement income benefit pursuant to RCW 28B.10.415, received by the retired person or the retired person's designated beneficiary(s) in such year, will not exceed fifty percent of the average annual salary paid to such retired person for his or her highest two consecutive years of full-time service under an annuity or retirement income plan established pursuant to (a) of this subsection at an institution of higher education: PROVIDED, HOWEVER, That if such retired person prior to retirement elected a supplemental payment survivors option, any such supplemental payments to such retired person or the retired person's designated beneficiary(s) shall be at actuarially reduced rates: PROVIDED FURTHER, That if a faculty member or other employee of an institution of higher education who is a participant in a retirement plan authorized by this section dies, or has died before retirement but after becoming eligible for retirement on account of age, the designated beneficiary(s) shall be entitled to receive the supplemental payment authorized by this subsection to which such designated beneficiary(s) would have been entitled had said deceased faculty member or other employee retired on the date of death after electing a supplemental payment survivors option: PROVIDED FURTHER, That for the purpose of this subsection, the designated beneficiary(s) shall be (i) the surviving spouse of the retiree; or, (ii) with the written consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education.

(2) Boards are prohibited from offering a purchased annuity or retirement income plan authorized under this section to employees hired on or after July 1, 2011, who have retired or are eligible to retire from a public employees' retirement system described in RCW 41.50.030. The ((~~higher education coordinating board~~)) student achievement council shall only offer participation in a purchased annuity or retirement income plan authorized under this section to employees who have previously contributed premiums to a similar qualified plan.

(3) During the 2011 legislative interim, the select committee on pension policy shall evaluate the suitability and necessity of the annuity and retirement plans authorized under this chapter for employees in various positions within higher education institutions. The select committee shall report its findings, including any recommendations for restrictions on future plan membership, to the ways and means committees of the house of representatives and the senate no later than December 31, 2011.

Sec. 513. RCW 28B.10.405 and 2011 1st sp.s. c 47 s 3 are each amended to read as follows:

Members of the faculties and such other employees exempt from civil service pursuant to RCW 41.06.070 (1)(((~~cc~~))) (z) and (2) as are designated by the boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, the ((~~higher education coordinating board~~)) student achievement council, or the state board for community and technical colleges who do not opt to become members of the

teachers' retirement system or the public employees' retirement system under RCW 41.32.836 or 41.40.798, or who are not prevented from participation in an annuity or retirement plan under RCW 28B.10.400(2) shall be required to contribute not less than five percent of their salaries during each year of full-time service after the first two years of such service toward the purchase of such annuity or retirement income plan; such contributions may be in addition to federal social security tax contributions, if any.

Sec. 514. RCW 28B.10.410 and 2011 1st sp.s. c 47 s 4 are each amended to read as follows:

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, the ((~~higher education coordinating board~~)) student achievement council, or the state board for community and technical colleges shall pay not more than one-half of the annual premium of any annuity or retirement income plan established under the provisions of RCW 28B.10.400. Such contribution shall not exceed ten percent of the salary of the faculty member or other employee on whose behalf the contribution is made. This contribution may be in addition to federal social security tax contributions made by the boards, if any.

Sec. 515. RCW 28B.10.415 and 2011 1st sp.s. c 47 s 5 are each amended to read as follows:

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, the ((~~higher education coordinating board~~)) student achievement council, or the state board for community and technical colleges shall not pay any amount to be added to the annuity or retirement income plan of any retired person who was first hired on or after July 1, 2011, or who has served for less than ten years in one or more of the state institutions of higher education. In the case of persons who have served more than ten years but less than twenty-five years no amount shall be paid in excess of four percent of the amount authorized in RCW 28B.10.400(1)(c), multiplied by the number of years of full-time service rendered by such person: PROVIDED, That credit for years of service at an institution of higher education shall be limited to those years in which contributions were made by a faculty member or other employee designated pursuant to RCW 28B.10.400(1)(a) and the institution or the state as a result of which a benefit is being received by a retired person from any Washington state public retirement plan: PROVIDED FURTHER, That all such benefits that a retired person is eligible to receive shall reduce any supplementation payments provided for in RCW 28B.10.400.

Sec. 516. RCW 28B.10.423 and 2011 1st sp.s. c 47 s 7 are each amended to read as follows:

(1) For employees who are first employed by an institution of higher education in a position eligible for participation in an old age annuities or retirement income plan under this chapter prior to July 1, 2011, it is the intent of RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, and 28B.10.423 that the retirement income resulting from the contributions described herein from the state of Washington and the employee shall be projected actuarially so that it shall not exceed sixty percent of the average of the highest two consecutive years salary. Periodic review of the retirement systems established pursuant to RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415,

28B.10.420, and 28B.10.423 will be undertaken at such time and in such manner as determined by the committees on ways and means of the senate and of the house of representatives, the select committee on pension policy, and the pension funding council, and joint contribution rates will be adjusted if necessary to accomplish this intent.

(2) Beginning July 1, 2011, state funding for annuity or retirement income plans under RCW 28B.10.400 shall not exceed six percent of salary. The state board for community and technical colleges and the ((~~higher education coordinating board~~)) student achievement council are exempt from the provisions of this subsection (2).

(3) By June 30, 2013, and every two years thereafter, each institution of higher education that is responsible for payment of supplemental amounts under RCW 28B.10.400(1)(c) shall contract with the state actuary under chapter 41.44 RCW for an actuarial valuation of their supplemental benefit plan. By June 30, 2013, and at least once every six years thereafter, each institution shall also contract with the state actuary under chapter 41.44 RCW for an actuarial experience study of the mortality, service, compensation, and other experience of the annuity or retirement income plans created in this chapter, and into the financial condition of each system. At the discretion of the state actuary, the valuation or experience study may be performed by the state actuary or by an outside actuarial firm under contract to the office of the state actuary. Each institution of higher education is required to provide the data and information required for the performance of the valuation or experience study to the office of the state actuary or to the actuary performing the study on behalf of the state actuary. The state actuary may charge each institution for the actual cost of the valuation or experience study through an interagency agreement. Upon completion of the valuation or experience study, the state actuary shall provide copies of the study to the institution of higher education and to the select committee on pension policy and the pension funding council.

(4)(a) A higher education retirement plan supplemental benefit fund is created in the custody of the state treasurer for the purpose of funding future benefit obligations of higher education retirement plan supplemental benefits. The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the fund.

(b) From January 1, 2012, through June 30, 2013, an employer contribution rate of one-quarter of one percent of salary is established to begin prefunding the unfunded future obligations of the supplemental benefit established in RCW 28B.10.400.

(c) Beginning July 1, 2013, an employer contribution rate of one-half of one percent of salary is established to prefund the unfunded future obligations of the supplemental benefit established in RCW 28B.10.400.

(d) Consistent with chapter 41.50 RCW, the department of retirement systems shall collect the employer contribution rates established in this section from each state institution of higher education, and deposit those contributions into the higher education retirement plan supplemental benefit fund. The contributions made by each employer into the higher education retirement plan supplemental benefit fund and the earnings on those contributions shall be accounted for separately within the fund.

(e) Following the completion and review of the initial actuarial valuations and experience study conducted pursuant to subsection (3) of this section, the pension funding council may:

(i) Adopt and make changes to the employer contribution rates established in this subsection consistent with the procedures established in chapter 41.45 RCW. If the actuarial valuations of the higher education retirement plans of each institution contributing to the higher education retirement plan supplemental benefit fund suggest that different contribution rates are appropriate for each institution, different rates may be adopted. Rates adopted by the pension funding council are subject to revision by the legislature;

(ii) Recommend legislation that will, upon accumulation of sufficient funding in the higher education retirement plan supplemental benefit fund, transfer the responsibility for making supplemental benefit payments to the department of retirement systems, and adjust employer contribution rates to reflect the transfer of responsibility.

Sec. 517. RCW 28B.10.784 and 1993 sp.s. c 15 s 6 are each amended to read as follows:

The participation rate used to calculate enrollment levels under RCW 28B.10.776 and 28B.10.782 shall be based on fall enrollment reported in the higher education enrollment report as maintained by the office of financial management, fall enrollment as reported in the management information system of the state board for community and technical colleges, and the corresponding fall population forecast by the office of financial management. Formal estimates of the state participation rates and enrollment levels necessary to fulfill the requirements of RCW 28B.10.776 and 28B.10.782 shall be determined by the office of financial management as part of its responsibility to develop and maintain student enrollment forecasts for colleges and universities under RCW 43.62.050. Formal estimates of the state participation rates and enrollment levels required by this section shall be based on procedures and standards established by a technical work group consisting of staff from the ((~~higher education coordinating board~~)) student achievement council, the public four-year institutions of higher education, the state board for community and technical colleges, the fiscal and higher education committees of the house of representatives and the senate, and the office of financial management. Formal estimates of the state participation rates and enrollment levels required by this section shall be submitted to the fiscal committees of the house of representatives and senate on or before November 15th of each even-numbered year. The ((~~higher education coordinating board~~)) student achievement council shall periodically review the enrollment goals set forth in RCW 28B.10.776 and 28B.10.782 and submit recommendations concerning modification of these goals to the governor and to the higher education committees of the house of representatives and the senate.

Sec. 518. RCW 28B.10.790 and 2011 1st sp.s. c 11 s 139 are each amended to read as follows:

Washington residents attending any nonprofit college or university in another state which has a reciprocity agreement with the state of Washington shall be eligible for the student financial aid program outlined in chapter 28B.92 RCW if (1) they qualify as a "needy student" under RCW 28B.92.030((~~(5)~~)) (4),

and (2) the institution attended is a member institution of an accrediting association recognized by rule of the ((~~office of student financial assistance~~)) student achievement council for the purposes of this section and is specifically encompassed within or directly affected by such reciprocity agreement and agrees to and complies with program rules and regulations pertaining to such students and institutions adopted pursuant to RCW 28B.92.150.

Sec. 519. RCW 28B.12.030 and 2011 1st sp.s. c 11 s 142 are each amended to read as follows:

As used in this chapter, the following words and terms shall have the following meanings, unless the context shall clearly indicate another or different meaning or intent:

(1) The term "needy student" shall mean a student enrolled or accepted for enrollment at a postsecondary institution who, according to a system of need analysis approved by the office of student financial assistance, demonstrates a financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter.

(2) The term "eligible institution" shall mean any postsecondary institution in this state accredited by the Northwest Association of Schools and Colleges, or a branch of a member institution of an accrediting association recognized by rule of the ((~~board~~)) student achievement council for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, or any public technical college in the state.

Sec. 520. RCW 28B.12.040 and 2011 1st sp.s. c 11 s 143 are each amended to read as follows:

The ((~~office of student financial assistance~~)) student achievement council shall develop and administer the state work-study program. The ((~~board~~)) council shall be authorized to enter into agreements with employers and eligible institutions for the operation of the program. These agreements shall include such provisions as the ((~~office~~)) council may deem necessary or appropriate to carry out the purposes of this chapter.

With the exception of off-campus community service placements, the share from moneys disbursed under the state work-study program of the compensation of students employed under such program in accordance with such agreements shall not exceed eighty percent of the total such compensation paid such students.

By rule, the ((~~office~~)) council shall define community service placements and may determine any salary matching requirements for any community service employers.

Sec. 521. RCW 28B.15.012 and 2011 1st sp.s. c 11 s 148 are each amended to read as follows:

Whenever used in this chapter:

(1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of

commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) Any person who has completed the full senior year of high school and obtained a high school diploma, both at a Washington public high school or private high school approved under chapter 28A.195 RCW, or a person who has received the equivalent of a diploma; who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent; who has continuously lived in the state of Washington after receiving the diploma or its equivalent and until such time as the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses;

(f) Any person who has lived in Washington, primarily for purposes other than educational, for at least one year immediately before the date on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

(g) A student who is on active military duty stationed in the state or who is a member of the Washington national guard;

(h) A student who is the spouse or a dependent of a person who is on active military duty stationed in the state. If the person on active military duty is reassigned out-of-state, the student maintains the status as a resident student so long as the student is continuously enrolled in a degree program;

(i) A student who resides in the state of Washington and is the spouse or a dependent of a person who is a member of the Washington national guard;

(j) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725;

(k) A student who meets the requirements of RCW 28B.15.0131: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(l) A student who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington; or

(m) A student who resides in Washington and is the spouse or a dependent of a person who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington. If the person on active military duty moves from Washington or is reassigned out of the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains the status as a resident student so long as the student resides in Washington and is continuously enrolled in a degree program.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of this section and RCW 28B.15.013. Except for students qualifying under subsection (2)(e) or (j) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter.

(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States citizenship immigration services or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in this section and RCW 28B.15.013.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules adopted by the ((~~office of student financial assistance~~)) student achievement council and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in

which application is made and such other evidence as the ((~~board~~)) council may require.

(6) The term "active military duty" means the person is serving on active duty in:

(a) The armed forces of the United States government; or

(b) The Washington national guard; or

(c) The coast guard, merchant mariners, or other nonmilitary organization when such service is recognized by the United States government as equivalent to service in the armed forces.

Sec. 522. RCW 28B.15.013 and 2011 1st sp.s. c 11 s 149 are each amended to read as follows:

(1) The establishment of a new domicile in the state of Washington by a person formerly domiciled in another state has occurred if such person is physically present in Washington primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to such other state or to acquire a domicile at some other place outside of Washington.

(2) Unless proven to the contrary it shall be presumed that:

(a) The domicile of any person shall be determined according to the individual's situation and circumstances rather than by marital status or sex.

(b) A person does not lose a domicile in the state of Washington by reason of residency in any state or country while a member of the civil or military service of this state or of the United States, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas if that person returns to the state of Washington within one year of discharge from said service with the intent to be domiciled in the state of Washington; any resident dependent student who remains in this state when such student's parents, having theretofore been domiciled in this state for a period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution, remove from this state, shall be entitled to continued classification as a resident student so long as such student's attendance (except summer sessions) at an institution in this state is continuous.

(3) To aid the institution in deciding whether a student, parent, legally appointed guardian or the person having legal custody of a student is domiciled in the state of Washington primarily for purposes other than educational, the rules ((~~and regulations~~)) adopted by the ((~~office of student financial assistance~~)) student achievement council shall include but not be limited to the following:

(a) Registration or payment of Washington taxes or fees on a motor vehicle, mobile home, travel trailer, boat, or any other item of personal property owned or used by the person for which state registration or the payment of a state tax or fee is required will be a factor in considering evidence of the establishment of a Washington domicile.

(b) Permanent full time employment in Washington by a person will be a factor in considering the establishment of a Washington domicile.

(c) Registration to vote for state officials in Washington will be a factor in considering the establishment of a Washington domicile.

(4) After a student has registered at an institution such student's classification shall remain unchanged in the absence of satisfactory evidence to

the contrary. A student wishing to apply for a change in classification shall reduce such evidence to writing and file it with the institution. In any case involving an application for a change from nonresident to resident status, the burden of proof shall rest with the applicant. Any change in classification, either nonresident to resident, or the reverse, shall be based upon written evidence maintained in the files of the institution and, if approved, shall take effect the semester or quarter such evidence was filed with the institution: PROVIDED, That applications for a change in classification shall be accepted up to the thirtieth calendar day following the first day of instruction of the quarter or semester for which application is made.

Sec. 523. RCW 28B.15.015 and 2011 1st sp.s. c 11 s 150 are each amended to read as follows:

The ((~~state's institutions~~)) student achievement council, with the advice of the attorney general, shall adopt rules ((~~and regulations~~)) to be used by the state's institutions for determining a student's resident and nonresident status and for recovery of fees for improper classification of residency.

Sec. 524. RCW 28B.15.068 and 2011 1st sp.s. c 10 s 7 are each amended to read as follows:

(1) By September 1st of each year beginning in 2011, the office of financial management shall report to the governor, the ((~~higher education coordinating board~~)) student achievement council, and appropriate committees of the legislature with updated estimates of:

(a) The total per-student funding level that represents the sixtieth percentile of funding for similar institutions of higher education in the global challenge states; and

(b) The tuition that represents the sixtieth percentile of resident undergraduate tuition for similar institutions of higher education in the global challenge states.

(2) As used in this section, "global challenge states" are the top performing states on the new economy index published by the progressive policy institute as of July 22, 2007. The new economy index ranks states on indicators of their potential to compete in the new economy. At least once every five years, the office of financial management shall determine if changes to the list of global challenge states are appropriate. The office of financial management shall report its findings to the governor and the legislature.

(3) Institutions of higher education, in collaboration with relevant student associations, shall aim to have all students who can benefit from available tax credits that mitigate the costs of higher education take advantage of these opportunities. These tax credits include the American opportunity tax credit provided in the American recovery and reinvestment act of 2009, the lifetime learning credit, and other relevant tax credits for as long as they are available.

(4)(a) Institutions shall make every effort to communicate to students and their families the benefits of such tax credits and provide assistance to students and their families on how to apply.

(b) Information about relevant tax credits shall, to the greatest extent possible, be incorporated into financial aid counseling, admission information, and individual billing statements.

(c) Institutions shall, to the greatest extent possible, use all means of communication, including but not limited to web sites, online catalogues, admission and registration forms, mass email messaging, social media, and outside marketing to ensure information about relevant tax credits is visible and compelling, and reaches the maximum amount of student and families that can benefit.

(5) In the event that the economic value of the American opportunity tax credit is reduced or expires at any time before December 31, 2012, institutions of higher education shall:

(a) Develop an updated tuition mitigation plan established under RCW 28B.15.102 for the purpose of minimizing, to the greatest extent possible, the increase in net cost of tuition or total cost of attendance for students resulting from any such change. This plan shall include the methods specified by the four-year institution of higher education to avoid adding additional loan debt burdens to students regardless of the source of such loans;

(b) Report to the governor and the relevant committees of the legislature on their plans to adjust their tuition mitigation plans no later than ninety days after any such change to the American opportunity tax credit.

Sec. 525. RCW 28B.15.068 and 2011 1st sp.s. c 50 s 928 are each amended to read as follows:

(1) Beginning with the 2007-08 academic year and ending with the 2016-17 academic year, tuition fees charged to full-time resident undergraduate students, except in academic years 2009-10 and 2010-11, may increase no greater than seven percent over the previous academic year in any institution of higher education. Annual reductions or increases in full-time tuition fees for resident undergraduate students shall be as provided in the omnibus appropriations act, within the seven percent increase limit established in this section. For academic years 2009-10 and 2010-11 the omnibus appropriations act may provide tuition increases greater than seven percent. To the extent that state appropriations combined with tuition and fee revenues are insufficient to achieve the total per-student funding goals established in subsection (2) of this section, the legislature may revisit state appropriations, authorized enrollment levels, and changes in tuition fees for any given fiscal year. In order to facilitate the full implementation of chapter 10, Laws of 2011 1st sp. sess. for the 2011-12 academic year and thereafter, the institutions of higher education are authorized to adopt tuition levels that are less than, equal to, or greater than the tuition levels assumed in the omnibus appropriations act, subject to the conditions and limitations in this chapter and the omnibus appropriations act.

(2) The state shall adopt as its goal total per-student funding levels, from state appropriations plus tuition and fees, of at least the sixtieth percentile of total per-student funding at similar public institutions of higher education in the global challenge states. In defining comparable per-student funding levels, the office of financial management shall adjust for regional cost-of-living differences; for differences in program offerings and in the relative mix of lower division, upper division, and graduate students; and for accounting and reporting differences among the comparison institutions. The office of financial management shall develop a funding trajectory for each four-year institution of higher education and for the community and technical college system as a whole that when combined with tuition and fees revenue allows the state to achieve its

funding goal for each four-year institution and the community and technical college system as a whole no later than fiscal year 2017. The state shall not reduce enrollment levels below fiscal year 2007 budgeted levels in order to improve or alter the per-student funding amount at any four-year institution of higher education or the community and technical college system as a whole. The state recognizes that each four-year institution of higher education and the community and technical college system as a whole have different funding requirements to achieve desired performance levels, and that increases to the total per-student funding amount may need to exceed the minimum funding goal.

(3) By September 1st of each year beginning in 2008, the office of financial management shall report to the governor, the ((~~higher education coordinating board~~)) student achievement council, and appropriate committees of the legislature with updated estimates of the total per-student funding level that represents the sixtieth percentile of funding for comparable institutions of higher education in the global challenge states, and the progress toward that goal that was made for each of the public institutions of higher education.

(4) As used in this section, "global challenge states" are the top performing states on the new economy index published by the progressive policy institute as of July 22, 2007. The new economy index ranks states on indicators of their potential to compete in the new economy. At least once every five years, the office of financial management shall determine if changes to the list of global challenge states are appropriate. The office of financial management shall report its findings to the governor and the legislature.

(5) During the 2009-10 and the 2010-11 academic years, institutions of higher education shall include information on their billing statements notifying students of tax credits available through the American opportunity tax credit provided in the American recovery and reinvestment act of 2009.

Sec. 526. RCW 28B.15.102 and 2011 1st sp.s. c 10 s 6 are each amended to read as follows:

(1) Beginning with the 2011-12 academic year, any four-year institution of higher education that increases tuition beyond levels assumed in the omnibus appropriations act is subject to the financial aid requirements included in this section and shall remain subject to these requirements through the 2018-19 academic year.

(2) Beginning July 1, 2011, each four-year institution of higher education that raises tuition beyond levels assumed in the omnibus appropriations act shall, in a manner consistent with the goal of enhancing the quality of and access to their institutions, provide financial aid to offset full-time tuition fees for resident undergraduate students as follows:

(a) Subtract from the full-time tuition fees an amount that is equal to the maximum amount of a state need grant award that would be given to an eligible student with a family income at or below fifty percent of the state's median family income as determined by the ((~~higher education coordinating board~~)) student achievement council; and

(b) Offset the remainder as follows:

(i) Students with demonstrated need whose family incomes are at or below fifty percent of the state's median family income shall receive financial aid equal to one hundred percent of the remainder if an institution's full-time tuition fees

for resident undergraduate students is five percent or greater of the state's median family income for a family of four as provided by the ((~~higher education coordinating board~~)) student achievement council;

(ii) Students with demonstrated need whose family incomes are greater than fifty percent and no more than seventy percent of the state's median family income shall receive financial aid equal to seventy-five percent of the remainder if an institution's full-time tuition fees for resident undergraduate students is ten percent or greater of the state's median family income for a family of four as provided by the ((~~higher education coordinating board~~)) student achievement council;

(iii) Students with demonstrated need whose family incomes exceed seventy percent and are less than one hundred percent of the state's median family income shall receive financial aid equal to fifty percent of the remainder if an institution's full-time tuition fees for resident undergraduate students is fifteen percent or greater of the state's median family income for a family of four as provided by the ((~~higher education coordinating board~~)) student achievement council; and

(iv) Students with demonstrated need whose family incomes are at or exceed one hundred percent and are no more than one hundred twenty-five percent of the state's median family income shall receive financial aid equal to twenty-five percent of the remainder if an institution's full-time tuition fees for resident undergraduate students is twenty percent or greater of the state's median family income for a family of four as provided by the ((~~higher education coordinating board~~)) student achievement council.

(3) The financial aid required in subsection (2) of this section shall:

(a) Be reduced by the amount of other financial aid awards, not including the state need grant;

(b) Be prorated based on credit load; and

(c) Only be provided to students up to demonstrated need.

(4) Financial aid sources and methods may be:

(a) Tuition revenue or locally held funds;

(b) Tuition waivers created by a four-year institution of higher education for the specific purpose of serving low and middle-income students; or

(c) Local financial aid programs.

(5) Use of tuition waivers as specified in subsection (4)(b) of this section shall not be included in determining total state tuition waiver authority as defined in RCW 28B.15.910.

(6) By August 15, 2012, and August 15th every year thereafter, four-year institutions of higher education shall report to the governor and relevant committees of the legislature on the effectiveness of the various sources and methods of financial aid in mitigating tuition increases. A key purpose of these reports is to provide information regarding the results of the decision to grant tuition-setting authority to the four-year institutions of higher education and whether tuition setting authority should continue to be granted to the institutions or revert back to the legislature after consideration of the impacts on students, including educational access, affordability, and quality. These reports shall include:

(a) The amount of additional financial aid provided to middle-income and low-income students with demonstrated need in the aggregate and per student;

(b) An itemization of the sources and methods of financial aid provided by the four-year institution of higher education in the aggregate and per student;

(c) An analysis of the combined impact of federal tuition tax credits and financial aid provided by the institution of higher education on the net cost to students and their families resulting from tuition increases;

(d) In cases where tuition increases are greater than those assumed in the omnibus appropriations act at any four-year institution of higher education, the institution must include an explanation in its report of why this increase was necessary and how the institution will mitigate the effects of the increase. The institution must include in this section of its report a plan and specific timelines; and

(e) An analysis of changes in resident student enrollment patterns, participation rates, graduation rates, and debt load, by race and ethnicity, gender, state and county of origin, age, and socioeconomic status, and a plan to mitigate effects of reduced diversity due to tuition increases. This analysis shall include disaggregated data for resident students in the following income brackets:

(i) Up to seventy percent of the median family income;

(ii) Between seventy-one percent and one hundred twenty-five percent of the median family income; and

(iii) Above one hundred twenty-five percent of the median family income.

(7) Beginning in the 2012-13 academic year, the University of Washington shall enroll during each academic year at least the same number of resident freshman undergraduate students at the Seattle campus, as defined in RCW 28B.15.012, as enrolled during the 2009-10 academic year. This requirement shall not apply to nonresident undergraduate and graduate and professional students.

Sec. 527. RCW 28B.15.460 and 1997 c 5 s 2 are each amended to read as follows:

(1) An institution of higher education shall not grant any waivers for the purpose of achieving gender equity until the 1991-92 academic year, and may grant waivers for the purpose of achieving gender equity in intercollegiate athletic programs as authorized in RCW 28B.15.740, for the 1991-92 academic year only if the institution's governing board has adopted a plan for complying with the provisions of RCW 28B.15.455 and submitted the plan to the ((~~higher education coordinating board~~)) student achievement council.

(2)(a) Beginning in the 1992-93 academic year, an institution of higher education shall not grant any waiver for the purpose of achieving gender equity in intercollegiate athletic programs as authorized in RCW 28B.15.740 unless the institution's plan has been approved by the ((~~higher education coordinating board~~)) student achievement council.

(b) Beginning in the 1999-2000 academic year, an institution that did not provide, by June 30, 1998, athletic opportunities for an historically underrepresented gender class at a rate that meets or exceeds the current rate at which that class participates in high school athletics in Washington state shall have a new institutional plan approved by the ((~~higher education coordinating board~~)) student achievement council before granting further waivers.

(c) Beginning in the 2003-04 academic year, an institution of higher education that was not within five percent of the ratio of undergraduates described in RCW 28B.15.470 by June 30, 2002, shall have a new plan for

achieving gender equity in intercollegiate athletic programs approved by the ((~~higher education coordinating board~~)) student achievement council before granting further waivers.

(3) The plan shall include, but not be limited to:

(a) For any institution with an historically underrepresented gender class described in subsection (2)(b) of this section, provisions that ensure that by July 1, 2000, the institution shall provide athletic opportunities for the underrepresented gender class at a rate that meets or exceeds the current rate at which that class participates in high school interscholastic athletics in Washington state not to exceed the point at which the underrepresented gender class is no longer underrepresented;

(b) For any institution with an underrepresented gender class described in subsection (2)(c) of this section, provisions that ensure that by July 1, 2004, the institution will have reached substantial proportionality in its athletic program;

(c) Activities to be undertaken by the institution to increase participation rates of any underrepresented gender class in interscholastic and intercollegiate athletics. These activities may include, but are not limited to: Sponsoring equity conferences, coaches clinics and sports clinics; and taking a leadership role in working with athletic conferences to reduce barriers to participation by those gender classes in interscholastic and intercollegiate athletics;

(d) An identification of barriers to achieving and maintaining equitable intercollegiate athletic opportunities for men and women; and

(e) Measures to achieve institutional compliance with the provisions of RCW 28B.15.455.

Sec. 528. RCW 28B.15.760 and 2011 1st sp.s. c 11 s 155 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.15.762 and 28B.15.764.

(1) ((~~"Board" means the higher education coordinating board.~~

~~(2)~~)) "Borrower" means an eligible student who has received a loan under RCW 28B.15.762.

(2) "Council" means the student achievement council.

(3) "Eligible student" means a student registered for at least ten credit hours or the equivalent and demonstrates achievement of a 3.00 grade point average for each academic year, who is a resident student as defined by RCW 28B.15.012 through 28B.15.015, who is a "needy student" as defined in RCW 28B.92.030, and who has a declared major in a program leading to a degree in teacher education in a field of science or mathematics, or a certificated teacher who meets the same credit hour and "needy student" requirements and is seeking an additional degree in science or mathematics.

(4) "Forgiven" or "to forgive" means to collect service as a teacher in a field of science or mathematics at a public school in the state of Washington in lieu of monetary payment.

(5) "Institution of higher education" or "institution" means a college or university in the state of Washington which is a member institution of an accrediting association recognized as such by rule of the ((~~higher education coordinating board~~)) council.

(6) "Office" means the office of student financial assistance.

(7) "Public school" means a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution.

(8) "Satisfied" means paid-in-full.

Sec. 529. RCW 28B.15.762 and 2011 1st sp.s. c 11 s 156 are each amended to read as follows:

(1) The ((~~office~~)) council may make long-term loans to eligible students at institutions of higher education from the funds appropriated to the ((~~office~~)) council for this purpose. The amount of any such loan shall not exceed the demonstrated financial need of the student or two thousand five hundred dollars for each academic year whichever is less, and the total amount of such loans to an eligible student shall not exceed ten thousand dollars. The interest rates and terms of deferral of such loans shall be consistent with the terms of the guaranteed loan program established by 20 U.S.C. Sec. 1701 et seq. The period for repaying the loan principal and interest shall be ten years with payments accruing quarterly commencing nine months from the date the borrower graduated. The entire principal and interest of each loan payment shall be forgiven for each payment period in which the borrower teaches science or mathematics in a public school in this state until the entire loan is satisfied or the borrower ceases to teach science or mathematics at a public school in this state. Should the borrower cease to teach science or mathematics at a public school in this state before the time in which the principal and interest on the loan are satisfied, payments on the unsatisfied portion of the principal and interest on the loan shall begin the next payment period and continue until the remainder of the loan is paid.

(2) The ((~~office~~)) council is responsible for collection of loans made under subsection (1) of this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Collection and servicing of loans under subsection (1) of this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The ((~~board~~)) council is responsible to forgive all or parts of such loans under the criteria established in subsection (1) of this section and shall maintain all necessary records of forgiven payments.

(3) Receipts from the payment of principal or interest or any other subsidies to which the ((~~board~~)) council as lender is entitled, which are paid by or on behalf of borrowers under subsection (1) of this section, shall be deposited with the office and shall be used to cover the costs of making the loans under subsection (1) of this section, maintaining necessary records, and making collections under subsection (2) of this section. The office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to make loans to eligible students.

(4) Any funds not used to make loans, or to cover the cost of making loans or making collections, shall be placed in the state educational trust fund for needy or disadvantaged students.

(5) The ((~~office~~)) council shall adopt necessary rules to implement this section.

Sec. 530. RCW 28B.30.515 and 2011 c 321 s 1 are each amended to read as follows:

(1) The legislature finds that access to baccalaureate and graduate degree programs continues to be limited for residents of north Snohomish, Island, and Skagit counties. Studies conducted by the state board for community and technical colleges, the higher education coordinating board, and the council of presidents confirm that enrollment in higher education compared to demand in this geographic region lags behind enrollment in other parts of the state, particularly for upper-division courses leading to advanced degrees.

(2) The legislature also finds that access to high employer demand programs of study is imperative for the state's global competitiveness and economic prosperity, particularly those degrees in the science, technology, engineering, and mathematics (STEM) fields that align with the workforce skill demands of the regional economy, that support the aerospace industry, and provide skilled undergraduate and graduate-degree engineers required by the largest employers in the aerospace industry cluster.

(3) The legislature finds that meeting the long-range goal of greatly expanded access for the population of the region to the widest array of baccalaureate and graduate programs can best be accomplished by assigning responsibility to a research university with multiple experiences in similar settings.

(4) Management and leadership of the University Center of North Puget Sound is assigned to Washington State University to meet the needs of the Everett metropolitan area and the north Snohomish, Island, and Skagit county region and the state of Washington for baccalaureate and graduate degrees offered by a state university. The chief executive officer of the University Center of North Puget Sound is the director who reports to the president of Washington State University. The director shall manage the activities and logistics of operating the center, make policy and planning recommendations to the council in subsection (5) of this section, and implement decisions of the council.

(5)(a) Washington State University and Everett Community College must collaborate with community leaders, and other four-year institutions of higher education that offer programs at the University Center of North Puget Sound to serve the varied interests of students in the region. To this end, a coordinating and planning council must be established to be responsible for long-range and strategic planning, interinstitutional collaboration, collaboration with the community served, and dispute resolution for the center. The following individuals shall comprise the coordinating and planning council:

(i) The president of Washington State University, or his or her designee;

(ii) The provost of Washington State University, or his or her designee;

(iii) The president of Everett Community College;

(iv) Two representatives of two other institutions of higher education that offer baccalaureate or graduate degree programs at the center;

(v) A student enrolled at the University Center of North Puget Sound appointed by the coordinating and planning council;

(vi) The director of the council, as the nonvoting chair;

(vii) A community leader appointed by the president of Everett Community College; and

(viii) A community leader appointed by the mayor of Everett.

(b) The coordinating and planning council may appoint other groups, as appropriate, to advise on administration and operations, and may alter its own composition by agreement of all the members.

(6)(a) Washington State University shall assume leadership of the center upon completion and approval by the legislature as provided under (d) of this subsection of a strategic plan for meeting the academic needs of the region and successful establishment of an engineering degree program. The strategic plan must build on the strengths of the institutions, reflecting each institution's mission, in order to provide the region with the highest standard of educational programs, research, and service to the community. The strategic plan must include a multibiennium budget that addresses both operating and capital expenses required to effectively implement the plan. The strategic plan shall be developed with the collaboration of the University Center at Everett Community College and all the institutions of higher education that provide baccalaureate degrees at the University Center, and community leaders.

(b) Center partners must implement the strategic plan with careful attention to the academic and professional standards established and maintained by each institution and by the appropriate accrediting bodies, and to the historic role of each institution's governing board in setting policy.

(c) The strategic plan must address expansion of the range and depth of educational opportunities in the region and include strategies that:

(i) Build upon baccalaureate and graduate degree offerings at the center;

(ii) Meet projected student enrollment demands for baccalaureate, graduate, and certificate programs in the region;

(iii) Meet employers' needs for skilled workers by expanding high employer demand programs of study as defined in RCW 28B.50.030, with an initial and ongoing emphasis by Washington State University on undergraduate and graduate science, technology, mathematics, and engineering degree programs, including a variety of engineering disciplines such as civil, mechanical, aeronautical, and aerospace manufacturing;

(iv) Coordinate delivery of lower and upper division courses to maximize student opportunities and resources; and

(v) Transfer budget support and resources for the center from Everett Community College to Washington State University.

(d) The strategic plan must be completed by December 1, 2012, and submitted to the legislature for review. The strategic plan shall be considered approved if the legislature does not take further action on the strategic plan during the 2013 legislative session. The transfer of the responsibility for the management and operation of the University Center of North Puget Sound to Washington State University must occur by July 1, 2014.

(7)(a) Academic programming and delivery at the center must be developed in accordance with the missions of Washington State University, Everett Community College, and other institutions of higher education that have a presence at the center.

(b) Each institution shall abide by the guidelines for university centers adopted by the ((~~higher education coordinating board~~)) student achievement council.

(c) Each institution shall award all degrees and certificates granted in the programs it delivers at the center.

(d) The coordinating council described in subsection (5) of this section shall establish a process for prioritizing new programs and revising existing programs that facilitates timeliness of new offerings, recognizes the internal processes of the proposing institutions, and addresses each proposal's fit with the needs of the region.

(8)(a) Washington State University shall review center expansion needs and consider capital facilities funding at least annually. Washington State University and Everett Community College must cooperate in preparing funding requests and bond financing for submission to the legislature on behalf of development at the center, in accordance with each institution's process and priorities for advancing legislative requests.

(b) Washington State University shall design, construct, and manage any facility developed at the center. Any facility developed at the center with Everett Community College capital funding must be designed by Everett Community College in consultation with Washington State University. Building construction may be managed by Washington State University via an interagency agreement which details responsibility and associated costs. Building operations and management for all facilities at the center must be governed by the infrastructure and operating cost allocation method described in subsection (9) of this section.

(9) Washington State University has responsibility for infrastructure development and maintenance for the center. All infrastructure operating and maintenance costs are to be shared in what is deemed to be an equitable and fair manner based on space allocation, special cost, and other relevant considerations. Washington State University may make infrastructure development and maintenance decisions in consultation with the council described in subsection (5) of this section.

(10) In the event that conflict cannot be resolved through the coordinating council described in subsection (5) of this section the ((~~higher education coordinating board~~)) student achievement council dispute resolution must be employed.

Sec. 531. RCW 28B.45.014 and 2011 c 208 s 1 are each amended to read as follows:

(1) The primary mission of the higher education branch campuses created under this chapter remains to expand access to baccalaureate and graduate education in underserved urban areas of the state in collaboration with community and technical colleges. The top priority for each of the campuses is to expand courses and degree programs for transfer and graduate students. New degree programs should be driven by the educational needs and demands of students and the community, as well as the economic development needs of local businesses and employers.

(2) Branch campuses shall collaborate with the community and technical colleges in their region to develop articulation agreements, dual admissions policies, and other partnerships to ensure that branch campuses serve as innovative models of a two plus two educational system. Other possibilities for collaboration include but are not limited to joint development of curricula and degree programs, colocation of instruction, and arrangements to share faculty.

(3) In communities where a private postsecondary institution is located, representatives of the private institution may be invited to participate in the conversation about meeting the baccalaureate and graduate needs in underserved urban areas of the state.

(4) However, the legislature recognizes there are alternative models for achieving this primary mission. Some campuses may have additional missions in response to regional needs and demands. At selected branch campuses, an innovative combination of instruction and research targeted to support regional economic development may be appropriate to meet the region's needs for both access and economic viability. Other campuses should focus on becoming models of a two plus two educational system through continuous improvement of partnerships and agreements with community and technical colleges. Still other campuses may be best suited to transition to a four-year university or be removed from designation as a branch campus entirely.

(5) The legislature recognizes that size, mix of degree programs, and proportion of lower versus upper division and graduate enrollments are factors that affect costs at branch campuses. However over time, the legislature intends that branch campuses be funded more similarly to regional universities.

(6) ((~~Subject to approval by the higher education coordinating board, in accordance with RCW 28B.76.230,~~)) Research universities are authorized to develop doctoral degree programs at their branch campuses.

(7) The ((~~higher education coordinating board~~)) student achievement council shall monitor and evaluate growth of the branch campuses and periodically report and make recommendations to the higher education committees of the legislature to ensure the campuses continue to follow the priorities established under this chapter.

Sec. 532. RCW 28B.45.020 and 2005 c 258 s 3 are each amended to read as follows:

(1) The University of Washington is responsible for ensuring the expansion of baccalaureate and graduate educational programs in the central Puget Sound area under rules or guidelines adopted by the ((~~higher education coordinating board~~)) student achievement council and in accordance with proportionality agreements emphasizing access for transfer students developed with the state board for community and technical colleges. The University of Washington shall meet that responsibility through the operation of at least two branch campuses. One branch campus shall be located in the Tacoma area. Another branch campus shall be collocated with Cascadia Community College in the Bothell-Woodinville area.

(2) At the University of Washington Tacoma, a top priority is expansion of upper division capacity for transfer students and graduate capacity and programs. Beginning in the fall of 2006, the campus may offer lower division courses linked to specific majors in fields not addressed at local community colleges. The campus shall admit lower division students through coadmission or coenrollment agreements with a community college, or through direct transfer for students who have accumulated approximately one year of transferable college credits. In addition to offering lower division courses linked to specific majors as addressed above, the campus may also directly admit freshmen and sophomores ((~~gradually and deliberately in accordance with the campus plan submitted to the higher education coordinating board in 2004~~)).

(3) At the University of Washington Bothell, a top priority is expansion of upper division capacity for transfer students and graduate capacity and programs. The campus shall also seek additional opportunities to collaborate with and maximize its ((~~collocation [colocation]~~)) colocation with Cascadia Community College. Beginning in the fall of 2006, the campus may offer lower division courses linked to specific majors in fields not addressed at local community colleges. The campus may admit lower division students through coadmission or coenrollment agreements with a community college, or through direct transfer for students who have accumulated approximately one year of transferable college credits. In addition to offering lower division courses linked to specific majors as addressed above, the campus may also directly admit freshmen and sophomores ((~~gradually and deliberately in accordance with the campus plan submitted to the higher education coordinating board in 2004~~)).

Sec. 533. RCW 28B.45.030 and 2006 c 166 s 1 are each amended to read as follows:

(1) Washington State University is responsible for providing baccalaureate and graduate level higher education programs to the citizens of the Tri-Cities area, under rules or guidelines adopted by the ((~~higher education coordinating board~~)) student achievement council and in accordance with proportionality agreements emphasizing access for transfer students developed with the state board for community and technical colleges. Washington State University shall meet that responsibility through the operation of a branch campus in the Tri-Cities area. The branch campus shall replace and supersede the Tri-Cities university center. All land, facilities, equipment, and personnel of the Tri-Cities university center shall be transferred from the University of Washington to Washington State University.

(2) ((~~In 2005, the legislature authorized the expansion on a limited basis of Washington State University's branch campus in the Tri-Cities area. The legislature authorized the Tri-Cities branch campus to continue providing innovative coadmission and coenrollment options with Columbia Basin College, and to expand its upper division capacity for transfer students and graduate capacity and programs. The branch campus was given authority beginning in fall 2006 to offer lower division courses linked to specific majors in fields not addressed at the local community colleges. The campus was also authorized to directly admit freshmen and sophomores for a bachelor's degree program in biotechnology subject to approval by the higher education coordinating board. The legislature finds that the Tri-Cities community is very engaged in and committed to exploring the further expansion of Washington State University Tri-Cities branch campus into a four-year institution and considers this issue to be a top priority for the larger Tri-Cities region.~~

~~(3) Washington State University Tri-Cities shall continue providing innovative coadmission and coenrollment options with Columbia Basin College, and expand its upper division capacity for transfer students and graduate capacity and programs. The campus shall also seek additional opportunities to collaborate with the Pacific Northwest national laboratory. Beginning in the fall of 2006, the campus may offer lower division courses linked to specific majors in fields not addressed at local community colleges. The campus may admit lower division students through coadmission or coenrollment agreements with a community college, or through direct transfer for students who have~~

~~accumulated approximately one year of transferable college credits. In addition to offering lower division courses linked to specific majors as addressed above, the campus may also directly admit freshmen and sophomores for a bachelor's degree program in biotechnology subject to approval by the higher education coordinating board.~~

~~(4) The Washington State University Tri-Cities branch campus shall develop a plan for expanding into a four-year institution and shall identify new degree programs and course offerings focused on areas of specific need in higher education that exist in southeastern Washington. The branch campus's plan should examine the resources and talent available in the Tri-Cities area, including but not limited to resources and talent available at the Pacific Northwest national laboratory, and how these resources and talent may best be used by the Tri-Cities branch campus to expand into a four-year institution. The branch campus shall submit its plan to the legislature and the higher education coordinating board by November 30, 2006.~~

~~(5)~~)) Beginning in the fall of 2007, the Washington State University Tri-Cities branch campus may ((~~begin, subject to approval by the higher education coordinating board, admitting lower-division students directly into programs beyond the biotechnology field that are identified in its plan as being in high need in southeastern Washington. Such fields may include but need not be limited to science, engineering and technology, biomedical sciences, alternative energy, and computational and information sciences. By gradually and deliberately admitting freshmen and sophomores in accordance with its plan, increasing transfer enrollment, and coadmitting transfer students, the campus shall develop into a four-year institution serving the southeastern Washington region~~)) directly admit freshman and sophomore students.

Sec. 534. RCW 28B.45.040 and 2005 c 258 s 5 are each amended to read as follows:

(1) Washington State University is responsible for providing baccalaureate and graduate level higher education programs to the citizens of the southwest Washington area, under rules or guidelines adopted by the ((~~higher education coordinating board~~)) student achievement council and in accordance with proportionality agreements emphasizing access for transfer students developed with the state board for community and technical colleges. Washington State University shall meet that responsibility through the operation of a branch campus in the southwest Washington area.

(2) Washington State University Vancouver shall expand upper division capacity for transfer students and graduate capacity and programs and continue to collaborate with local community colleges on coadmission and coenrollment programs. In addition, beginning in the fall of 2006, the campus may admit lower division students directly. By simultaneously admitting freshmen and sophomores, increasing transfer enrollment, coadmitting transfer students, and expanding graduate and professional programs, the campus shall develop into a four-year institution serving the southwest Washington region.

Sec. 535. RCW 28B.45.080 and 2004 c 57 s 5 are each amended to read as follows:

The ((~~higher education coordinating board~~)) state board for community and technical colleges and the student achievement council shall adopt performance

measures to ensure a collaborative partnership between the community and technical colleges and the branch campuses. The partnership shall be one in which the community and technical colleges prepare students for transfer to the upper-division programs of the branch campuses and the branch campuses work with community and technical colleges to enable students to transfer and obtain degrees efficiently.

Sec. 536. RCW 28B.50.030 and 2009 c 353 s 1, 2009 c 151 s 3, and 2009 c 64 s 3 are each reenacted and amended to read as follows:

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

(1) "Adult education" means all education or instruction, including academic, vocational education or training, basic skills and literacy training, and "occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate. However, "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate, nor shall "adult education" include education or instruction provided by any four-year public institution of higher education.

(2) "Applied baccalaureate degree" means a baccalaureate degree awarded by a college under RCW 28B.50.810 for successful completion of a program of study that is:

(a) Specifically designed for individuals who hold an associate of applied science degree, or its equivalent, in order to maximize application of their technical course credits toward the baccalaureate degree; and

(b) Based on a curriculum that incorporates both theoretical and applied knowledge and skills in a specific technical field.

(3) "Board" means the workforce training and education coordinating board.

(4) "Board of trustees" means the local community and technical college board of trustees established for each college district within the state.

(5) "Center of excellence" means a community or technical college designated by the college board as a statewide leader in industry-specific, community and technical college workforce education and training.

(6) "College board" means the state board for community and technical colleges created by this chapter.

(7) "Common school board" means a public school district board of directors.

(8) "Community college" includes those higher education institutions that conduct education programs under RCW 28B.50.020.

(9) "Director" means the administrative director for the state system of community and technical colleges.

(10) "Dislocated forest product worker" means a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business' services or goods; and (b) at the time of last separation from

employment, resided in or was employed in a rural natural resources impact area.

(11) "Dislocated salmon fishing worker" means a finfish products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(12) "District" means any one of the community and technical college districts created by this chapter.

(13) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(3).

(14) "High employer demand program of study" means an apprenticeship, or an undergraduate or graduate certificate or degree program in which the number of students prepared for employment per year from in-state institutions is substantially less than the number of projected job openings per year in that field, statewide or in a substate region.

(15) "K-12 system" means the public school program including kindergarten through the twelfth grade.

(16) "Occupational education" means education or training that will prepare a student for employment that does not require a baccalaureate degree, and education and training that will prepare a student for transfer to bachelor's degrees in professional fields, subject to rules adopted by the college board.

(17) "Qualified institutions of higher education" means:

(a) Washington public community and technical colleges;

(b) Private career schools that are members of an accrediting association recognized by rule of the ((~~higher education coordinating board~~)) student achievement council for the purposes of chapter 28B.92 RCW; and

(c) Washington state apprenticeship and training council-approved apprenticeship programs.

(18) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets three of the five criteria set forth in subsection (19) of this section;

(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (19) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets three of the five criteria set forth in subsection (19) of this section.

(19) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area of which any part is ten miles or more from an urbanized area is considered nonurbanized. A zip code totally surrounded by zip codes qualifying as nonurbanized under this definition is also considered nonurbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.

(20) "Salmon fishing worker" means a worker in the finfish industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and recreational harvesting of finfish including buying and processing finfish. The commissioner may adopt rules further interpreting these definitions.

(21) "System" means the state system of community and technical colleges, which shall be a system of higher education.

(22) "Technical college" includes those higher education institutions with the mission of conducting occupational education, basic skills, literacy programs, and offering on short notice, when appropriate, programs that meet specific industry needs. For purposes of this chapter, technical colleges shall include Lake Washington Vocational-Technical Institute, Renton Vocational-Technical Institute, Bates Vocational-Technical Institute, Clover Park Vocational Institute, and Bellingham Vocational-Technical Institute.

Sec. 537. RCW 28B.50.140 and 2010 c 51 s 4 are each amended to read as follows:

Each board of trustees:

(1) Shall operate all existing community and technical colleges in its district;

(2) Shall create comprehensive programs of community and technical college education and training and maintain an open-door policy in accordance with the provisions of RCW 28B.50.090(3);

(3) Shall employ for a period to be fixed by the board a college president for each community and technical college and, may appoint a president for the

district, and fix their duties and compensation, which may include elements other than salary. Compensation under this subsection shall not affect but may supplement retirement, health care, and other benefits that are otherwise applicable to the presidents as state employees. The board shall also employ for a period to be fixed by the board members of the faculty and such other administrative officers and other employees as may be necessary or appropriate and fix their salaries and duties. Compensation and salary increases under this subsection shall not exceed the amount or percentage established for those purposes in the state appropriations act by the legislature as allocated to the board of trustees by the state board for community and technical colleges. The state board for community and technical colleges shall adopt rules defining the permissible elements of compensation under this subsection;

(4) May establish, ((~~under the approval and direction of the college board~~)) in accordance with RCW 28B.76.230 (as recodified by this act), new facilities as community needs and interests demand. However, the authority of boards of trustees to purchase or lease major off-campus facilities shall be subject to the approval of the ((~~higher education coordinating board~~)) student achievement council pursuant to RCW 28B.76.230 (as recodified by this act);

(5) May establish or lease, operate, equip and maintain dormitories, food service facilities, bookstores and other self-supporting facilities connected with the operation of the community and technical college;

(6) May, with the approval of the college board, borrow money and issue and sell revenue bonds or other evidences of indebtedness for the construction, reconstruction, erection, equipping with permanent fixtures, demolition and major alteration of buildings or other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances, for dormitories, food service facilities, and other self-supporting facilities connected with the operation of the community and technical college in accordance with the provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

(7) May establish fees and charges for the facilities authorized hereunder, including reasonable rules and regulations for the government thereof, not inconsistent with the rules of the college board; each board of trustees operating a community and technical college may enter into agreements, subject to rules of the college board, with owners of facilities to be used for housing regarding the management, operation, and government of such facilities, and any board entering into such an agreement may:

(a) Make rules for the government, management and operation of such housing facilities deemed necessary or advisable; and

(b) Employ necessary employees to govern, manage and operate the same;

(8) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs as specified by law and the rules of the state college board; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt rules to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(9) May establish and maintain night schools whenever in the discretion of the board of trustees it is deemed advisable, and authorize classrooms and other

facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for community and technical college purposes;

(10) May make rules for pedestrian and vehicular traffic on property owned, operated, or maintained by the district;

(11) Shall prescribe, with the assistance of the faculty, the course of study in the various departments of the community and technical college or colleges under its control, and publish such catalogues and bulletins as may become necessary;

(12) May grant to every student, upon graduation or completion of a course of study, a suitable diploma, degree, or certificate under the rules of the state board for community and technical colleges that are appropriate to their mission. The purposes of these diplomas, certificates, and degrees are to lead individuals directly to employment in a specific occupation or prepare individuals for a bachelor's degree or beyond. Technical colleges may only offer transfer degrees that prepare students for bachelor's degrees in professional fields, subject to rules adopted by the college board. In adopting rules, the college board, where possible, shall create consistency between community and technical colleges and may address issues related to tuition and fee rates; tuition waivers; enrollment counting, including the use of credits instead of clock hours; degree granting authority; or any other rules necessary to offer the associate degrees that prepare students for transfer to bachelor's degrees in professional areas. Only ((~~pilot~~)) colleges under RCW 28B.50.810 may award baccalaureate degrees. The board, upon recommendation of the faculty, may also confer honorary associate of arts degrees upon persons other than graduates of the community college, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property;

(13) Shall enforce the rules prescribed by the state board for community and technical colleges for the government of community and technical colleges, students and teachers, and adopt such rules and perform all other acts not inconsistent with law or rules of the state board for community and technical colleges as the board of trustees may in its discretion deem necessary or appropriate to the administration of college districts: PROVIDED, That such rules shall include, but not be limited to, rules relating to housing, scholarships, conduct at the various community and technical college facilities, and discipline: PROVIDED, FURTHER, That the board of trustees may suspend or expel from community and technical colleges students who refuse to obey any of the duly adopted rules;

(14) May, by written order filed in its office, delegate to the president or district president any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised in the name of the district board;

(15) May perform such other activities consistent with this chapter and not in conflict with the directives of the college board;

(16) Notwithstanding any other provision of law, may offer educational services on a contractual basis other than the tuition and fee basis set forth in chapter 28B.15 RCW for a special fee to private or governmental entities, consistent with rules adopted by the state board for community and technical

colleges: PROVIDED, That the whole of such special fee shall go to the college district and be not less than the full instructional costs of such services including any salary increases authorized by the legislature for community and technical college employees during the term of the agreement: PROVIDED FURTHER, That enrollments generated hereunder shall not be counted toward the official enrollment level of the college district for state funding purposes;

(17) Notwithstanding any other provision of law, may offer educational services on a contractual basis, charging tuition and fees as set forth in chapter 28B.15 RCW, counting such enrollments for state funding purposes, and may additionally charge a special supplemental fee when necessary to cover the full instructional costs of such services: PROVIDED, That such contracts shall be subject to review by the state board for community and technical colleges and to such rules as the state board may adopt for that purpose in order to assure that the sum of the supplemental fee and the normal state funding shall not exceed the projected total cost of offering the educational service: PROVIDED FURTHER, That enrollments generated by courses offered on the basis of contracts requiring payment of a share of the normal costs of the course will be discounted to the percentage provided by the college;

(18) Shall be authorized to pay dues to any association of trustees that may be formed by the various boards of trustees; such association may expend any or all of such funds to submit biennially, or more often if necessary, to the governor and to the legislature, the recommendations of the association regarding changes which would affect the efficiency of such association;

(19) May participate in higher education centers and consortia that involve any four-year public or independent college or university((~~: PROVIDED, That new degree programs or off-campus programs offered by a four-year public or independent college or university in collaboration with a community or technical college are subject to approval by the higher education coordinating board under~~)) in accordance with RCW 28B.76.230 (as recodified by this act);

(20) Shall perform any other duties and responsibilities imposed by law or rule of the state board; and

(21) May confer honorary associate of arts degrees upon persons who request an honorary degree if they were students at the college in 1942 and did not graduate because they were ordered into an internment camp. The honorary degree may also be requested by a representative of deceased persons who meet these requirements. For the purposes of this subsection, "internment camp" means a relocation center to which persons were ordered evacuated by Presidential Executive Order 9066, signed on February 19, 1942.

Sec. 538. RCW 28B.50.820 and 2005 c 258 s 12 are each amended to read as follows:

(1) One strategy to accomplish expansion of baccalaureate capacity in underserved regions of the state is to allocate state funds for student enrollment to a community and technical college and authorize the college to enter into agreements with a state university, regional university, or state college as defined in RCW 28B.10.016 ((~~or a branch campus under chapter 28B.45 RCW~~)), to offer baccalaureate degree programs.

(2) Subject to legislative appropriation for the purpose described in this section, the college board shall select and allocate funds to three community or technical colleges for the purpose of entering into an agreement with one or

more state universities, regional universities, ((~~branch campuses,~~)) or the state college to offer baccalaureate degree programs on the college campus.

(3) The college board shall select the community or technical college based on analysis of gaps in service delivery, capacity, and student and employer demand for programs. Before taking effect, the agreement under this section must be approved by the ((~~higher education coordinating board~~)) student achievement council.

(4) Students enrolled in programs under this section are considered students of the state university, regional university, branch campus, or state college for all purposes including tuition and reporting of state-funded enrollments.

Sec. 539. RCW 28B.65.040 and 1995 c 399 s 29 are each amended to read as follows:

(1) The Washington high-technology coordinating board is hereby created.

(2) The board shall be composed of eighteen members as follows:

(a) Eleven shall be citizen members appointed by the governor, with the consent of the senate, for four-year terms. In making the appointments the governor shall ensure that a balanced geographic representation of the state is achieved and shall attempt to choose persons experienced in high-technology fields, including at least one representative of labor. Any person appointed to fill a vacancy occurring before a term expires shall be appointed only for the remainder of that term; and

(b) Seven of the members shall be as follows: One representative from each of the state's two research universities, one representative of the state college and regional universities, the director for the state system of community and technical colleges or the director's designee, the superintendent of public instruction or the superintendent's designee, ((~~a representative of the higher education coordinating board~~)) the executive director of the student achievement council, or the executive director's designee, and the director of the department of ((~~community, trade, and economic development~~)) commerce or the director's designee.

(3) Members of the board shall not receive any salary for their services, but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060 for each day actually spent in attending to duties as a member of the board.

(4) A citizen member of the board shall not be, during the term of office, a member of the governing board of any public or private educational institution, or an employee of any state or local agency.

Sec. 540. RCW 28B.65.050 and 1998 c 245 s 22 are each amended to read as follows:

(1) The board shall oversee, coordinate, and evaluate the high-technology programs.

(2) The board shall:

(a) Determine the specific high-technology occupational fields in which technical training is needed and advise the institutions of higher education and the ((~~higher education coordinating board~~)) student achievement council on their findings;

(b) Identify economic areas and high-technology industries in need of technical training and research and development critical to economic

development and advise the institutions of higher education and the ((~~higher education coordinating board~~)) student achievement council on their findings;

(c) Oversee and coordinate the Washington high-technology education and training program to ensure high standards, efficiency, and effectiveness;

(d) Work cooperatively with the superintendent of public instruction to identify the skills prerequisite to the high-technology programs in the institutions of higher education;

(e) ((~~Work cooperatively with and provide any information or advice which may be requested by the higher education coordinating board during the board's review of new baccalaureate degree program proposals which are submitted under this chapter. Nothing in this chapter shall be construed as altering or superseding the powers or prerogatives of the higher education coordinating board over the review of new degree programs as established in section 6(2) of this 1985 act;~~

~~(f)~~)) Work cooperatively with the department of ((~~community, trade, and economic development~~)) commerce to identify the high-technology education and training needs of existing Washington businesses and businesses with the potential to locate in Washington;

(((~~(g)~~))) (f) Work towards increasing private sector participation and contributions in Washington high-technology programs;

(((~~(h)~~))) (g) Identify and evaluate the effectiveness of state sponsored research related to high technology; and

(((~~(i)~~))) (h) Establish and maintain a plan, including priorities, to guide high-technology program development in public institutions of higher education, which plan shall include an assessment of current high-technology programs, steps to increase existing programs, new initiatives and programs necessary to promote high technology, and methods to coordinate and target high-technology programs to changing market opportunities in business and industry.

(3) The board may adopt rules under chapter 34.05 RCW as it deems necessary to carry out the purposes of this chapter.

(4) The board shall cease to exist on June 30, 1987, unless extended by law for an additional fixed period of time.

Sec. 541. RCW 28B.76.250 and 2004 c 55 s 2 are each amended to read as follows:

(1) The ((~~higher education coordinating board~~)) council must convene work groups to develop transfer associate degrees that will satisfy lower division requirements at public four-year institutions of higher education for specific academic majors. Work groups must include representatives from the state board for community and technical colleges and the council of presidents, as well as faculty from two and four-year institutions. Work groups may include representatives from independent four-year institutions.

(2) Each transfer associate degree developed under this section must enable a student to complete the lower-division courses or competencies for general education requirements and preparation for the major that a direct-entry student would typically complete in the freshman and sophomore years for that academic major.

(3) Completion of a transfer associate degree does not guarantee a student admission into an institution of higher education or admission into a major, minor, or professional program at an institution of higher education that has

competitive admission standards for the program based on grade point average or other performance criteria.

(4) During the 2004-05 academic year, the work groups must develop transfer degrees for elementary education, engineering, and nursing. ((~~Each year thereafter, the higher education coordinating board~~)) As necessary based on demand or identified need, the council must convene additional groups to identify and develop additional transfer degrees. The ((~~board~~)) council must give priority to majors in high demand by transfer students and majors that the general direct transfer agreement associate degree does not adequately prepare students to enter automatically upon transfer.

(5) The ((~~higher education coordinating board~~)) council, in collaboration with the intercollege relations commission, must collect and maintain lists of courses offered by each community and technical college and public four-year institution of higher education that fall within each transfer associate degree.

(6) The ((~~higher education coordinating board~~)) council must monitor implementation of transfer associate degrees by public four-year institutions to ensure compliance with subsection (2) of this section.

(7) Beginning January 10, 2005, the ((~~higher education coordinating board~~)) council must submit a progress report on the development of transfer associate degrees to the higher education committees of the house of representatives and the senate. The first progress report must include measurable benchmark indicators to monitor the effectiveness of the initiatives in improving transfer and baseline data for those indicators before the implementation of the initiatives. Subsequent reports must be submitted by January 10 of each odd-numbered year and must monitor progress on the indicators, describe development of additional transfer associate degrees, and provide other data on improvements in transfer efficiency.

Sec. 542. RCW 28B.85.010 and 1986 c 136 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) ((~~"Board"~~)) "Council" means the ((~~higher education coordinating board~~)) student achievement council.

(2) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of the requirements of an academic program of study beyond the secondary school level.

(3) "Degree-granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree beyond the secondary level.

Sec. 543. RCW 28B.85.020 and 2006 c 234 s 3 are each amended to read as follows:

(1) The ((~~board~~)) council:

(a) Shall adopt by rule, in accordance with chapter 34.05 RCW, minimum standards for degree-granting institutions concerning granting of degrees, quality of education, unfair business practices, financial stability, and other necessary measures to protect citizens of this state against substandard,

fraudulent, or deceptive practices. The rules shall require that an institution operating in Washington:

(i) Be accredited;

(ii) Have applied for accreditation and such application is pending before the accrediting agency;

(iii) Have been granted a waiver by the ((~~board~~)) council waiving the requirement of accreditation; or

(iv) Have been granted an exemption by the ((~~board~~)) council from the requirements of this subsection (1)(a);

(b) May investigate any entity the ((~~board~~)) council reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the ((~~board~~)) council may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the ((~~board~~)) council deems relevant or material to the investigation. The ((~~board~~)) council, including its staff and any other authorized persons, may conduct site inspections, the cost of which shall be borne by the institution, and examine records of all institutions subject to this chapter;

(c) Shall develop an interagency agreement with the workforce training and education coordinating board to regulate degree-granting private vocational schools with respect to degree and nondegree programs; and

(d) Shall develop and disseminate information to the public about entities that sell or award degrees without requiring appropriate academic achievement at the postsecondary level, including but not limited to, a description of the substandard and potentially fraudulent practices of these entities, and advice about how the public can recognize and avoid the entities. To the extent feasible, the information shall include links to additional resources that may assist the public in identifying specific institutions offering substandard or fraudulent degree programs.

(2) Financial disclosures provided to the ((~~board~~)) council by degree-granting private vocational schools are not subject to public disclosure under chapter 42.56 RCW.

Sec. 544. RCW 28B.85.030 and 2003 c 53 s 175 are each amended to read as follows:

(1) A degree-granting institution shall not operate and shall not grant or offer to grant any degree unless the institution has obtained current authorization from the ((~~board~~)) council.

(2) Any person, group, or entity or any owner, officer, agent, or employee of such entity who willfully violates this section is guilty of a gross misdemeanor and shall be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail for a term not to exceed one year, or by both such fine and imprisonment. Each day on which a violation occurs constitutes a separate violation. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state.

Sec. 545. RCW 28B.85.040 and 2006 c 234 s 4 are each amended to read as follows:

(1) An institution or person shall not advertise, offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and

successfully completed a prescribed program of study, as outlined in the institution's publications. This prohibition shall not apply to honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other educational credentials in compliance with state law.

(2) No exemption or waiver granted under this chapter is permanent. The ((~~board~~)) council shall periodically review exempted degree-granting institutions and degree-granting institutions granted a waiver, and continue exemptions or waivers only if an institution meets the statutory or ((~~board~~)) council requirements for exemption or waiver in effect on the date of the review.

(3) Except as provided in subsection (1) of this section, this chapter shall not apply to:

(a) Any public college, university, community college, technical college, or institute operating as part of the public higher educational system of this state;

(b) Institutions that have been accredited by an accrediting association recognized by the ((~~agency~~)) council for the purposes of this chapter: PROVIDED, That those institutions meet minimum exemption standards adopted by the ((~~agency~~)) council; and PROVIDED FURTHER, That an institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association to qualify for this exemption;

(c) Institutions of a religious character, but only as to those education programs devoted exclusively to religious or theological objectives if the programs are represented in an accurate manner in institutional catalogs and other official publications;

(d) Honorary credentials clearly designated as such on the front side of the diploma or certificate awarded by institutions offering other educational credentials in compliance with state law; or

(e) Institutions not otherwise exempt which offer only workshops or seminars and institutions offering only credit-bearing workshops or seminars lasting no longer than three calendar days.

Sec. 546. RCW 28B.85.050 and 1986 c 136 s 5 are each amended to read as follows:

All degree-granting institutions subject to this chapter shall file information with the ((~~board~~)) council as the ((~~board~~)) council may require.

Sec. 547. RCW 28B.85.060 and 1986 c 136 s 6 are each amended to read as follows:

The ((~~board~~)) council shall impose fees on any degree-granting institution authorized to operate under this chapter. Fees shall be set and revised by the ((~~board~~)) council by rule at the level necessary to approximately recover the staffing costs incurred in administering this chapter. Fees shall be deposited in the general fund.

Sec. 548. RCW 28B.85.070 and 1986 c 136 s 7 are each amended to read as follows:

(1) The ((~~board~~)) council may require any degree-granting institution to have on file with the ((~~board~~)) council an approved surety bond or other security in lieu of a bond in an amount determined by the ((~~board~~)) council.

(2) In lieu of a surety bond, an institution may deposit with the ((~~board~~)) council a cash deposit or other negotiable security acceptable to the ((~~board~~)) council. The security deposited with the ((~~board~~)) council in lieu of the surety bond shall be returned to the institution one year after the institution's authorization has expired or been revoked if legal action has not been instituted against the institution or the security deposit at the expiration of the year. The obligations and remedies relating to surety bonds authorized by this section, including but not limited to the settlement of claims procedure in subsection (5) of this section, shall apply to deposits filed with the ((~~board~~)) council, as applicable.

(3) Each bond shall:

(a) Be executed by the institution as principal and by a corporate surety licensed to do business in the state;

(b) Be payable to the state for the benefit and protection of any student or enrollee of an institution, or, in the case of a minor, his or her parents or guardian;

(c) Be conditioned on compliance with all provisions of this chapter and the ((~~board's~~)) council's rules adopted under this chapter;

(d) Require the surety to give written notice to the ((~~board~~)) council at least thirty-five days before cancellation of the bond; and

(e) Remain in effect for one year following the effective date of its cancellation or termination as to any obligation occurring on or before the effective date of cancellation or termination.

(4) Upon receiving notice of a bond cancellation, the ((~~board~~)) council shall notify the institution that the authorization will be suspended on the effective date of the bond cancellation unless the institution files with the ((~~board~~)) council another approved surety bond or other security. The ((~~board~~)) council may suspend or revoke the authorization at an earlier date if it has reason to believe that such action will prevent students from losing their tuition or fees.

(5) If a complaint is filed under RCW 28B.85.090(1) against an institution, the ((~~board~~)) council may file a claim against the surety and settle claims against the surety by following the procedure in this subsection.

(a) The ((~~board~~)) council shall attempt to notify all potential claimants. If the absence of records or other circumstances makes it impossible or unreasonable for the ((~~board~~)) council to ascertain the names and addresses of all the claimants, the ((~~board~~)) council after exerting due diligence and making reasonable inquiry to secure that information from all reasonable and available sources, may make a demand on a bond on the basis of information in the ((~~board's~~)) council's possession. The ((~~board~~)) council is not liable or responsible for claims or the handling of claims that may subsequently appear or be discovered.

(b) Thirty days after notification, if a claimant fails, refuses, or neglects to file with the ((~~board~~)) council a verified claim, the ((~~board~~)) council shall be relieved of further duty or action under this chapter on behalf of the claimant.

(c) After reviewing the claims, the ((~~board~~)) council may make demands upon the bond on behalf of those claimants whose claims have been filed. The ((~~board~~)) council may settle or compromise the claims with the surety and may execute and deliver a release and discharge of the bond.

(d) If the surety refuses to pay the demand, the ((~~board~~)) council may bring an action on the bond in behalf of the claimants. If an action is commenced on the bond, the ((~~board~~)) council may require a new bond to be filed.

(e) Within ten days after a recovery on a bond or other posted security has occurred, the institution shall file a new bond or otherwise restore its security on file to the required amount.

(6) The liability of the surety shall not exceed the amount of the bond.

Sec. 549. RCW 28B.85.080 and 1986 c 136 s 8 are each amended to read as follows:

The ((~~board~~)) council may suspend or modify any of the requirements under this chapter in a particular case if the ((~~board~~)) council finds that:

(1) The suspension or modification is consistent with the purposes of this chapter; and

(2) The education to be offered addresses a substantial, demonstrated need among residents of the state or that literal application of this chapter would cause a manifestly unreasonable hardship.

Sec. 550. RCW 28B.85.090 and 1989 c 175 s 82 are each amended to read as follows:

(1) A person claiming loss of tuition or fees as a result of an unfair business practice may file a complaint with the ((~~board~~)) council. The complaint shall set forth the alleged violation and shall contain information required by the ((~~board~~)) council. A complaint may also be filed with the ((~~board~~)) council by an authorized staff member of the ((~~board~~)) council or by the attorney general.

(2) The ((~~board~~)) council shall investigate any complaint under this section and may attempt to bring about a settlement. The ((~~board~~)) council may hold a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, in order to determine whether a violation has occurred. If the ((~~board~~)) council prevails, the degree-granting institution shall pay the costs of the administrative hearing.

(3) If, after the hearing, the ((~~board~~)) council finds that the institution or its agent engaged in or is engaging in any unfair business practice, the ((~~board~~)) council shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties under RCW 28B.85.100. If the ((~~board~~)) council finds that the complainant has suffered loss as a result of the act or practice, the ((~~board~~)) council may order full or partial restitution for the loss. The complainant is not bound by the ((~~board's~~)) council's determination of restitution and may pursue any other legal remedy.

Sec. 551. RCW 28B.85.100 and 1986 c 136 s 10 are each amended to read as follows:

Any person, group, or entity or any owner, officer, agent, or employee of such entity who ((~~wilfully~~)) willfully violates any provision of this chapter or the rules adopted under this chapter shall be subject to a civil penalty of not more than one hundred dollars for each violation. Each day on which a violation occurs constitutes a separate violation. The fine may be imposed by the ((~~higher education coordinating board~~)) council or by any court of competent jurisdiction.

Sec. 552. RCW 28B.85.130 and 1986 c 136 s 13 are each amended to read as follows:

If any degree-granting institution discontinues its operation, the chief administrative officer of the institution shall file with the ((~~board~~)) council the original or legible true copies of all educational records required by the ((~~board~~)) council. If the ((~~board~~)) council determines that any educational records are in danger of being made unavailable to the ((~~board~~)) council, the ((~~board~~)) council may seek a court order to protect and if necessary take possession of the records. The ((~~board~~)) council shall cause to be maintained a permanent file of educational records coming into its possession.

Sec. 553. RCW 28B.85.170 and 1986 c 136 s 17 are each amended to read as follows:

The ((~~board~~)) council may seek injunctive relief, after giving notice to the affected party, in a court of competent jurisdiction for a violation of this chapter or the rules adopted under this chapter. The ((~~board~~)) council need not allege or prove that the ((~~board~~)) council has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the ((~~board~~)) council has and is in addition to any right of criminal prosecution provided by law. The existence of ((~~board~~)) council action with respect to alleged violations of this chapter and rules adopted under this chapter does not operate as a bar to an action for injunctive relief under this section.

Sec. 554. RCW 28B.90.010 and 1993 c 181 s 2 are each amended to read as follows:

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

(1) "Degree" means any designation, appellation, certificate, letters or words including, but not limited to, "associate," "bachelor," "masters," "doctorate," or "fellow" that signifies, or purports to signify, satisfactory and successful completion of requirements of a postsecondary academic program of study.

(2) "Foreign degree-granting institution" means a public or private college or university, either profit or nonprofit:

(a) That is domiciled in a foreign country;

(b) That offers in its country of domicile credentials, instruction, or services prerequisite to the obtaining of an academic or professional degree granted by such college or university; and

(c) That is authorized under the laws or regulations of its country of domicile to operate a degree-granting institution in that country.

(3) "Approved branch campus" means a foreign degree-granting institution's branch campus that has been approved by the ((~~higher education coordinating board~~)) student achievement council to operate in the state.

(4) "Branch campus" means an educational facility located in the state that:

(a) Is either owned and operated directly by a foreign degree-granting institution or indirectly through a Washington profit or nonprofit corporation in which the foreign degree-granting institution is the sole or controlling shareholder or member; and

(b) Provides courses solely and exclusively to students enrolled in a degree-granting program offered by the foreign degree-granting institution who:

(i) Have received academic credit for courses of study completed at the foreign degree-granting institution in its country of domicile;

(ii) Will receive academic credit towards their degree from the foreign degree-granting institution for the courses of study completed at the educational facility in the state; and

(iii) Will return to the foreign degree-granting institution in its country of domicile for completion of their degree-granting program or receipt of their degree.

(5) ((~~"Board"~~)) "Council" means the ((~~higher education coordinating board~~)) student achievement council.

Sec. 555. RCW 28B.90.020 and 1999 c 85 s 1 are each amended to read as follows:

A foreign degree-granting institution that submits evidence satisfactory to the ((~~board~~)) council of its authorized status in its country of domicile and its intent to establish an educational facility in the state is entitled to operate a branch campus as defined in RCW 28B.90.010. Upon receipt of the satisfactory evidence, the ((~~board~~)) council may certify that the branch campus of the foreign degree-granting institution is approved to operate in the state under this chapter, for as long as the foreign degree-granting institution retains its authorized status in its country of domicile.

Sec. 556. RCW 28B.90.030 and 1993 c 181 s 4 are each amended to read as follows:

A branch campus of a foreign degree-granting institution previously found by the ((~~board~~)) council to be exempt from chapter 28B.85 RCW may continue to operate in the state. However, within one year of July 25, 1993, the institution shall provide evidence of authorization as required under RCW 28B.90.020. Upon receipt of the satisfactory evidence, the ((~~board~~)) council shall certify that the branch campus of the foreign degree-granting institution is approved to operate in the state under this chapter.

Sec. 557. RCW 28B.92.030 and 2011 1st sp.s. c 11 s 159 are each amended to read as follows:

As used in this chapter:

(1) "Council" means the student achievement council.

(2) "Disadvantaged student" means a posthigh school student who by reason of adverse cultural, educational, environmental, experiential, familial or other circumstances is unable to qualify for enrollment as a full-time student in an institution of higher education, who would otherwise qualify as a needy student, and who is attending an institution of higher education under an established program designed to qualify the student for enrollment as a full-time student.

((~~(2)~~)) (3) "Financial aid" means loans and/or grants to needy students enrolled or accepted for enrollment as a student at institutions of higher education.

((~~(3)~~)) (4) "Institution" or "institutions of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the ((~~board~~))

council for the purposes of this section: PROVIDED, That any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association, or a branch of a member institution of an accrediting association recognized by rule of the ((~~board~~)) council for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, and has an annual enrollment of at least seven hundred full-time equivalent students: PROVIDED FURTHER, That no institution of higher education shall be eligible to participate in a student financial aid program unless it agrees to and complies with program rules and regulations adopted pursuant to RCW 28B.92.150.

(((~~(4)~~))) (5) "Needy student" means a posthigh school student of an institution of higher education who demonstrates to the ((~~board~~)) office the financial inability, either through the student's parents, family and/or personally, to meet the total cost of board, room, books, and tuition and incidental fees for any semester or quarter. "Needy student" also means an opportunity internship graduate as defined by RCW 28C.18.162 who enrolls in a postsecondary program of study as defined in RCW 28C.18.162 within one year of high school graduation.

(((~~(5)~~))) (6) "Office" means the office of student financial assistance.

(((~~(6)~~))) (7) "Placebound student" means a student who (a) is unable to complete a college program because of family or employment commitments, health concerns, monetary inability, or other similar factors; and (b) may be influenced by the receipt of an enhanced student financial aid award to complete a baccalaureate degree at an eligible institution.

Sec. 558. RCW 28B.92.060 and 2011 1st sp.s. c 11 s 162 and 2011 1st sp.s. c 10 s 9 are each reenacted and amended to read as follows:

In awarding need grants, the office shall proceed substantially as follows: PROVIDED, That nothing contained herein shall be construed to prevent the office, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The office shall annually select the financial aid award recipients from among Washington residents applying for student financial aid who have been ranked according to:

(a) Financial need as determined by the amount of the family contribution; and

(b) Other considerations, such as whether the student is a former foster youth, or is a placebound student who has completed an associate of arts or associate of science degree or its equivalent.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until disbursed, except that eligible former foster youth shall be assured receipt of a grant. The ((~~board~~)) office, in consultation with four-year institutions of higher education, the council, and the state board for community and technical colleges, shall develop award criteria and methods

of disbursement based on level of need, and not solely rely on a first-come, first-served basis.

(3) A student shall be eligible to receive a state need grant for up to five years, or the credit or clock hour equivalent of five years, or up to one hundred twenty-five percent of the published length of time of the student's program. A student may not start a new associate degree program as a state need grant recipient until at least five years have elapsed since earning an associate degree as a need grant recipient, except that a student may earn two associate degrees concurrently. Qualifications for renewal will include maintaining satisfactory academic progress toward completion of an eligible program as determined by the office. Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according to the institution's own policy for issuing refunds, except as provided in RCW 28B.92.070.

(4) In computing financial need, the office shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions. Any child support payments received by students who are parents attending less than half-time shall not be used in computing financial need.

(5)(a) A student who is enrolled in three to six credit-bearing quarter credits, or the equivalent semester credits, may receive a grant for up to one academic year before beginning a program that leads to a degree or certificate.

(b) An eligible student enrolled on a less-than-full-time basis shall receive a prorated portion of his or her state need grant for any academic period in which he or she is enrolled on a less-than-full-time basis, as long as funds are available.

(c) An institution of higher education may award a state need grant to an eligible student enrolled in three to six credit-bearing quarter credits, or the semester equivalent, on a provisional basis if:

(i) The student has not previously received a state need grant from that institution;

(ii) The student completes the required free application for federal student aid;

(iii) The institution has reviewed the student's financial condition, and the financial condition of the student's family if the student is a dependent student, and has determined that the student is likely eligible for a state need grant; and

(iv) The student has signed a document attesting to the fact that the financial information provided on the free application for federal student aid and any additional financial information provided directly to the institution is accurate and complete, and that the student agrees to repay the institution for the grant amount if the student submitted false or incomplete information.

(6) As used in this section, "former foster youth" means a person who is at least eighteen years of age, but not more than twenty-four years of age, who was a dependent of the department of social and health services at the time he or she attained the age of eighteen.

Sec. 559. RCW 28B.92.070 and 2004 c 275 s 38 are each amended to read as follows:

Under rules adopted by the ((~~board~~)) council, the provisions of RCW 28B.92.060(3) shall not apply to eligible students, as defined in RCW

28B.10.017, and eligible students shall not be required to repay the unused portions of grants received under the state student financial aid program.

Sec. 560. RCW 28B.92.082 and 2009 c 215 s 3 are each amended to read as follows:

(1) To the extent funds are appropriated for this purpose and within overall appropriations for the state need grant, enhanced need grants are provided for persons who meet all of the following criteria:

(a) Are needy students as defined in RCW 28B.92.030;

(b) Are placebound students as defined in RCW 28B.92.030; and

(c) Have completed the associate of arts or the associate of science degree, or its equivalent.

(2) The enhanced need grants established in this section are provided to this specific group of students in addition to the base state need grant, as defined by rule of the ((~~board~~)) council.

Sec. 561. RCW 28B.97.020 and 2011 1st sp.s. c 11 s 175 are each amended to read as follows:

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

(1) "Institution of higher education" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the ((~~board~~)) student achievement council.

(2) "Office" means the office of student financial assistance.

(3) "Program" means the Washington higher education loan program.

(4) "Resident student" has the definition in RCW 28B.15.012(2) (a) through (d).

Sec. 562. RCW 28B.102.020 and 2011 1st sp.s. c 11 s 176 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) "Approved education program" means an education program in the state of Washington for knowledge and skills generally learned in preschool through twelfth grade. Approved education programs may include but are not limited to:

(a) K-12 schools under Title 28A RCW; or

(b) Other K-12 educational sites in the state of Washington as designated by the ((~~board~~)) student achievement council.

(2) "Conditional scholarship" means a loan that is forgiven in whole or in part if the recipient renders service as a teacher in an approved education program in this state.

(3) "Eligible student" means a student who is registered for at least six credit hours or the equivalent, demonstrates high academic achievement, is a resident student as defined by RCW 28B.15.012 and 28B.15.013, and has a declared intention to complete an approved preparation program leading to initial teacher certification or required for earning an additional endorsement, and commits to teaching service in the state of Washington.

(4) "Equalization fee" means the additional amount added to the principal of a loan under this chapter to equate the debt to that which the student would have incurred if the loan had been received through the federal subsidized Stafford student loan program.

(5) "Forgiven" or "to forgive" or "forgiveness" means to render service as a teacher in an approved education program in the state of Washington in lieu of monetary repayment.

(6) "Institution of higher education" or "institution" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the student achievement council ((~~for higher education~~)).

(7) "Loan repayment" means a federal student loan that is repaid in whole or in part if the recipient renders service as a teacher in an approved education program in Washington state.

(8) "Office" means the office of student financial assistance.

(9) "Participant" means an eligible student who has received a conditional scholarship or loan repayment under this chapter.

(10) "Public school" means an elementary school, a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution.

(11) "Satisfied" means paid-in-full.

(12) "Teacher shortage area" means a shortage of elementary or secondary school teachers in a specific subject area, discipline, classification, or geographic area as defined by the office of the superintendent of public instruction.

Sec. 563. RCW 28B.102.030 and 2011 1st sp.s. c 11 s 177 are each amended to read as follows:

The future teachers conditional scholarship and loan repayment program is established. The program shall be administered by the ((~~office~~)) student achievement council. In administering the program, the ((~~board~~)) council shall have the following powers and duties:

(1) Select students to receive conditional scholarships or loan repayments;

(2) Adopt necessary rules and guidelines;

(3) Publicize the program;

(4) Collect and manage repayments from students who do not meet their teaching obligations under this chapter; and

(5) Solicit and accept grants and donations from public and private sources for the program.

Sec. 564. RCW 28B.108.040 and 1990 c 287 s 5 are each amended to read as follows:

The ((~~board~~)) office may award scholarships to eligible students from moneys earned from the endowment fund created in RCW 28B.108.060, or from funds appropriated to the ((~~board~~)) council for this purpose, or from any private donations, or from any other funds given to the ((~~board~~)) council for this program. For an undergraduate student, the amount of the scholarship shall not exceed the student's demonstrated financial need. For a graduate student, the amount of the scholarship shall not exceed the student's demonstrated need; or the stipend of a teaching assistant, including tuition, at the University of Washington; whichever is higher. In calculating a student's need, the ((~~board~~)) office shall consider the student's costs for tuition, fees, books, supplies, transportation, room, board, personal expenses, and child care. The student's scholarship awarded under this chapter shall not exceed the amount received by a student attending a state research university. A student is eligible to receive a

scholarship for a maximum of five years. However, the length of the scholarship shall be determined at the discretion of the ((~~board~~)) office.

Sec. 565. RCW 28B.109.010 and 2011 1st sp.s. c 11 s 195 are each amended to read as follows:

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

(1) "Eligible participant" means an international student whose country of residence has a trade relationship with the state of Washington.

(2) "Institution of higher education" or "institution" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the ((~~board~~)) student achievement council.

(3) "Office" means the office of student financial assistance.

(4) "Service obligation" means volunteering for a minimum number of hours as established by the ((~~board~~)) student achievement council based on the amount of scholarship award, to speak to or teach groups of Washington citizens, including but not limited to elementary, middle, and high schools, service clubs, and universities.

(5) "Washington international exchange scholarship program" means a scholarship award for a period not to exceed one academic year to attend a Washington institution of higher education made to an international student whose country has an established trade relationship with Washington.

Sec. 566. RCW 28B.110.030 and 1989 c 341 s 3 are each amended to read as follows:

In consultation with institutions of higher education, the ((~~higher education coordinating board~~)) student achievement council shall develop rules and guidelines to eliminate possible gender discrimination to students, including sexual harassment, at institutions of higher education as defined in RCW 28B.10.016. The rules and guidelines shall include but not be limited to access to academic programs, student employment, counseling and guidance services, financial aid, recreational activities including club sports, and intercollegiate athletics.

(1) With respect to higher education student employment, all institutions shall be required to:

(a) Make no differentiation in pay scales on the basis of gender;

(b) Assign duties without regard to gender except where there is a bona fide occupational qualification as approved by the Washington human rights commission;

(c) Provide the same opportunities for advancement to males and females; and

(d) Make no difference in the conditions of employment on the basis of gender in areas including, but not limited to, hiring practices, leaves of absence, and hours of employment.

(2) With respect to admission standards, admissions to academic programs shall be made without regard to gender.

(3) Counseling and guidance services for students shall be made available to all students without regard to gender. All academic and counseling personnel

shall be required to stress access to all career and vocational opportunities to students without regard to gender.

(4) All academic programs shall be available to students without regard to gender.

(5) With respect to recreational activities, recreational activities shall be offered to meet the interests of students. Institutions which provide the following shall do so with no disparities based on gender: Equipment and supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for recreational purposes shall provide comparable facilities for both males and females.

(6) With respect to financial aid, financial aid shall be equitably awarded by type of aid, with no disparities based on gender.

(7) With respect to intercollegiate athletics, institutions that provide the following shall do so with no disparities based on gender:

(a) Benefits and services including, but not limited to, equipment and supplies; medical services; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; scholarships and other forms of financial aid; conditioning programs; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for athletic purposes shall provide comparable facilities for both males and females.

(b) Opportunities to participate in intercollegiate athletics. Institutions shall provide equitable opportunities to male and female students.

(c) Male and female coaches and administrators. Institutions shall attempt to provide some coaches and administrators of each gender to act as role models for male and female athletes.

(8) Each institution shall develop and distribute policies and procedures for handling complaints of sexual harassment.

Sec. 567. RCW 28B.110.040 and 2011 1st sp.s. c 11 s 203 are each amended to read as follows:

The executive director of the ((~~higher education coordinating board~~)) student achievement council, in consultation with the council of presidents and the state board for community and technical colleges, shall monitor the compliance by institutions of higher education with this chapter.

(1) The ((~~board~~)) council shall establish a timetable and guidelines for compliance with this chapter.

(2) By November 30, 1990, each institution shall submit to the ((~~board~~)) council for approval a plan to comply with the requirements of RCW 28B.110.030. The plan shall contain measures to ensure institutional compliance with the provisions of this chapter by September 30, 1994. If participation in activities, such as intercollegiate athletics and matriculation in academic programs is not proportionate to the percentages of male and female enrollment, the plan should outline efforts to identify barriers to equal

participation and to encourage gender equity in all aspects of college and university life.

(3) The ((~~board~~)) council may delegate to the state board for community and technical colleges any or all responsibility for community college compliance with the provisions of this chapter.

Sec. 568. RCW 28B.116.010 and 2011 1st sp.s. c 11 s 214 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) "Cost of attendance" means the cost associated with the attendance of the institution of higher education as determined by the office of student financial assistance, including but not limited to tuition, room, board, and books.

(2) "Eligible student" means a student who:

(a) Is between the ages of sixteen and twenty-three;

(b) Has been in foster care in the state of Washington for a minimum of six months since his or her fourteenth birthday;

(c) Is a financially needy student, as defined in RCW 28B.92.030;

(d) Is a resident student, as defined in RCW 28B.15.012(2);

(e) Has entered or will enter an institution of higher education in Washington state within three years of high school graduation or having successfully completed his or her GED;

(f) Is not pursuing a degree in theology; and

(g) Makes satisfactory progress towards the completion of a degree or certificate program.

(3) "Institution of higher education" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the ((~~higher education coordinating board~~)) student achievement council.

(4) "Office" means the office of student financial assistance.

Sec. 569. RCW 28B.116.030 and 2011 1st sp.s. c 11 s 216 are each amended to read as follows:

(1) The office may award scholarships to eligible students from the foster care scholarship endowment fund in RCW 28B.116.060, from funds appropriated to the ((~~board~~)) student achievement council for this purpose, from any private donations, or from any other funds given to the office for the program.

(2) The office may award scholarships to eligible students from moneys earned from the foster care scholarship endowment fund created in RCW 28B.116.060, or from funds appropriated to the ((~~board~~)) council for this purpose, or from any private donations, or from any other funds given to the office for this program. For an undergraduate student, the amount of the scholarship shall not exceed the student's demonstrated financial need. For a graduate student, the amount of the scholarship shall not exceed the student's demonstrated need; or the stipend of a teaching assistant, including tuition, at the University of Washington; whichever is higher. In calculating a student's need, the office shall consider the student's costs for tuition, fees, books, supplies, transportation, room, board, personal expenses, and child care. The student's scholarship awarded under this chapter shall not exceed the amount received by

a student attending a state research university. A student is eligible to receive a scholarship for a maximum of five years. However, the length of the scholarship shall be determined at the discretion of the office.

(3) Grants under this chapter shall not affect eligibility for the state student financial aid program.

Sec. 570. RCW 28B.117.020 and 2011 1st sp.s. c 11 s 220 are each amended to read as follows:

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

(1) "Cost of attendance" means the cost associated with attending a particular institution of higher education as determined by the office, including but not limited to tuition, fees, room, board, books, personal expenses, and transportation, plus the cost of reasonable additional expenses incurred by an eligible student and approved by a financial aid administrator at the student's school of attendance.

(2) "Emancipated from foster care" means a person who was a dependent of the state in accordance with chapter 13.34 RCW and who was receiving foster care in the state of Washington when he or she reached his or her eighteenth birthday.

(3) "Financial need" means the difference between a student's cost of attendance and the student's total family contribution as determined by the method prescribed by the United States department of education.

(4) "Independent college or university" means a private, nonprofit institution of higher education, open to residents of the state, providing programs of education beyond the high school level leading to at least the baccalaureate degree, and accredited by the Northwest association of schools and colleges, and other institutions as may be developed that are approved by the ((~~board~~)) council as meeting equivalent standards as those institutions accredited under this section.

(5) "Institution of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any independent college or university in Washington; or

(c) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level that is a member institution of an accrediting association recognized by rule of the ((~~higher education coordinating board~~)) student achievement council for the purposes of this section: PROVIDED, That any institution, branch, extension, or facility operating within the state of Washington that is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association, or a branch of a member institution of an accrediting association recognized by rule of the ((~~board~~)) council for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, and has an annual enrollment of at least seven hundred full-time equivalent students.

(6) "Office" means the office of student financial assistance.

(7) "Program" means the passport to college promise pilot program created in this chapter.

***Sec. 570 was vetoed. See message at end of chapter.**

Sec. 571. RCW 28B.120.010 and 2010 c 245 s 7 are each amended to read as follows:

The Washington fund for innovation and quality in higher education program is established. The ((~~higher education coordinating board~~)) student achievement council shall administer the program and shall work in close collaboration with the state board for community and technical colleges and other local and regional entities. Through this program the ((~~higher education coordinating board~~)) student achievement council may award on a competitive basis incentive grants to state public or private nonprofit institutions of higher education or consortia of institutions to encourage programs designed to address specific system problems. Each institution or consortia of institutions receiving the award shall contribute some financial support, either by covering part of the costs for the program during its implementation, or by assuming continuing support at the end of the grant period. Strong priority will be given to proposals that involve more than one sector of education. Institutions are encouraged to solicit nonstate funds to support these cooperative programs.

Sec. 572. RCW 28B.120.020 and 2011 1st sp.s. c 11 s 235 are each amended to read as follows:

The ((~~higher education coordinating board~~)) student achievement council shall have the following powers and duties in administering the program for those proposals in which a four-year institution of higher education is named as the lead institution and fiscal agent:

(1) To adopt rules necessary to carry out the program;

(2) To award grants no later than September 1st in those years when funding is available by June 30th;

(3) To establish each biennium specific guidelines for submitting grant proposals consistent with RCW 28B.120.005 and consistent with the ((~~strategic master~~)) ten-year plan for higher education, the system design plan, the overall goals of the program and the guidelines established by the state board for community and technical colleges under RCW 28B.120.025.

After June 30, 2001, and each biennium thereafter, the ((~~board~~)) council shall determine funding priorities for proposals for the biennium in consultation with the legislature, the office of the superintendent of public instruction, the state board for community and technical colleges, the workforce training and education coordinating board, higher education institutions, educational associations, and business and community groups consistent with statewide needs;

(4) To solicit grant proposals and provide information to the institutions of higher education about the program; and

(5) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants awarded by the office of financial management.

Sec. 573. RCW 28B.120.025 and 1999 c 169 s 4 are each amended to read as follows:

The state board for community and technical colleges has the following powers and duties in administering the program for those proposals in which a community or technical college is named as the lead institution and fiscal agent:

(1) To adopt rules necessary to carry out the program;

(2) To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include individuals with significant experience in higher education in areas relevant to one or more of the funding period priorities and shall include representatives from both the four-year and two-year sectors of higher education;

(3) To award grants no later than September 1st in those years when funding is available by June 30th;

(4) To establish each biennium specific guidelines for submitting grant proposals consistent with the overall goals of the program and consistent with the guidelines established by the ((~~higher education coordinating board~~)) student achievement council under RCW 28B.120.020. During the 1999-01 biennium the guidelines shall be consistent with the following desired outcomes of:

(a) Minority and diversity initiatives that encourage the participation of minorities in higher education, including students with disabilities;

(b) K-12 teacher preparation models that encourage collaboration between higher education and K-12 to improve the preparedness of teachers, including provisions for higher education faculty involved with teacher preparation to spend time teaching in K-12 schools;

(c) Collaborative instructional programs involving K-12, community and technical colleges, and four-year institutions of higher education to develop a three-year degree program, or reduce the time to degree;

(d) Contracts with public or private institutions or businesses to provide services or the development of collaborative programs;

(e) Articulation and transfer activities to smooth the transfer of students from K-12 to higher education, or from the community colleges and technical colleges to four-year institutions;

(f) Projects that further the development of learner-centered, technology-assisted course delivery; and

(g) Projects that further the development of competency-based measurements of student achievement to be used as the basis for awarding degrees and certificates;

(5) To solicit grant proposals and provide information to the community and technical colleges and private career schools; and

(6) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants awarded by the state board for community and technical colleges.

Sec. 574. RCW 28B.120.030 and 1999 c 169 s 6 are each amended to read as follows:

The ((~~higher education coordinating board~~)) student achievement council and the state board for community and technical colleges may solicit and receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the program and may expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

Sec. 575. RCW 28B.120.040 and 1999 c 169 s 7 are each amended to read as follows:

The ((~~higher education coordinating board~~)) student achievement council fund for innovation and quality is hereby established in the custody of the state treasurer. The ((~~higher education coordinating board~~)) student achievement council shall deposit in the fund all moneys received under RCW 28B.120.030. Moneys in the fund may be spent only for the purposes of RCW 28B.120.010 and 28B.120.020. Disbursements from the fund shall be on the authorization of the ((~~higher education coordinating board~~)) student achievement council. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

Sec. 576. RCW 28C.10.030 and 1994 sp.s. c 9 s 723 are each amended to read as follows:

This chapter does not apply to:

(1) Bona fide trade, business, professional, or fraternal organizations sponsoring educational programs primarily for that organization's membership or offered by that organization on a no-fee basis;

(2) Entities offering education that is exclusively avocational or recreational;

(3) Education not requiring payment of money or other consideration if this education is not advertised or promoted as leading toward educational credentials;

(4) Entities that are established, operated, and governed by this state or its political subdivisions under Title 28A, 28B, or 28C RCW;

(5) Degree-granting programs in compliance with the rules of the ((~~higher education coordinating board~~)) student achievement council;

(6) Any other entity to the extent that it has been exempted from some or all of the provisions of this chapter under RCW 28C.10.100;

(7) Entities not otherwise exempt that are of a religious character, but only as to those educational programs exclusively devoted to religious or theological objectives and represented accurately in institutional catalogs or other official publications;

(8) Entities offering only courses certified by the federal aviation administration;

(9) Barber and cosmetology schools licensed under chapter 18.16 RCW;

(10) Entities which only offer courses approved to meet the continuing education requirements for licensure under chapter 18.04, 18.79, or 48.17 RCW; and

(11) Entities not otherwise exempt offering only workshops or seminars lasting no longer than three calendar days.

Sec. 577. RCW 28C.10.040 and 1994 c 38 s 5 are each amended to read as follows:

The agency:

(1) Shall maintain a list of private vocational schools licensed under this chapter;

(2) Shall adopt rules in accordance with chapter 34.05 RCW to carry out this chapter;

(3) May investigate any entity the agency reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the agency may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the agency deems relevant or material to the investigation. The agency, including its staff and any other authorized persons, may conduct site inspections and examine records of all schools subject to this chapter;

(4) Shall develop an interagency agreement with the ((~~higher education coordinating board~~)) student achievement council to regulate degree-granting private vocational schools with respect to degree and nondegree programs.

Sec. 578. RCW 28C.18.030 and 1996 c 99 s 3 are each amended to read as follows:

The purpose of the board is to provide planning, coordination, evaluation, monitoring, and policy analysis for the state training system as a whole, and advice to the governor and legislature concerning the state training system, in cooperation with the state training system and the ((~~higher education coordinating board~~)) student achievement council.

Sec. 579. RCW 28C.18.060 and 2009 c 151 s 6 are each amended to read as follows:

The board, in cooperation with the operating agencies of the state training system and private career schools and colleges, shall:

(1) Concentrate its major efforts on planning, coordination evaluation, policy analysis, and recommending improvements to the state's training system;

(2) Advocate for the state training system and for meeting the needs of employers and the workforce for workforce education and training;

(3) Establish and maintain an inventory of the programs of the state training system, and related state programs, and perform a biennial assessment of the vocational education, training, and adult basic education and literacy needs of the state; identify ongoing and strategic education needs; and assess the extent to which employment, training, vocational and basic education, rehabilitation services, and public assistance services represent a consistent, integrated approach to meet such needs;

(4) Develop and maintain a state comprehensive plan for workforce training and education, including but not limited to, goals, objectives, and priorities for the state training system, and review the state training system for consistency with the state comprehensive plan. In developing the state comprehensive plan for workforce training and education, the board shall use, but shall not be limited to: Economic, labor market, and populations trends reports in office of financial management forecasts; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome, net-impact and cost-benefit evaluations; the needs of employers as evidenced in formal employer surveys and other employer input; and the needs of program participants and workers as evidenced in formal surveys and other input from program participants and the labor community;

(5) In consultation with the ((~~higher education coordinating board~~)) student achievement council, review and make recommendations to the office of

financial management and the legislature on operating and capital facilities budget requests for operating agencies of the state training system for purposes of consistency with the state comprehensive plan for workforce training and education;

(6) Provide for coordination among the different operating agencies and components of the state training system at the state level and at the regional level;

(7) Develop a consistent and reliable database on vocational education enrollments, costs, program activities, and job placements from publicly funded vocational education programs in this state;

(8)(a) Establish standards for data collection and maintenance for the operating agencies of the state training system in a format that is accessible to use by the board. The board shall require a minimum of common core data to be collected by each operating agency of the state training system;

(b) Develop requirements for minimum common core data in consultation with the office of financial management and the operating agencies of the training system;

(9) Establish minimum standards for program evaluation for the operating agencies of the state training system, including, but not limited to, the use of common survey instruments and procedures for measuring perceptions of program participants and employers of program participants, and monitor such program evaluation;

(10) Every two years administer scientifically based outcome evaluations of the state training system, including, but not limited to, surveys of program participants, surveys of employers of program participants, and matches with employment security department payroll and wage files. Every five years administer scientifically based net-impact and cost-benefit evaluations of the state training system;

(11) In cooperation with the employment security department, provide for the improvement and maintenance of quality and utility in occupational information and forecasts for use in training system planning and evaluation. Improvements shall include, but not be limited to, development of state-based occupational change factors involving input by employers and employees, and delineation of skill and training requirements by education level associated with current and forecasted occupations;

(12) Provide for the development of common course description formats, common reporting requirements, and common definitions for operating agencies of the training system;

(13) Provide for effectiveness and efficiency reviews of the state training system;

(14) In cooperation with the ((~~higher education coordinating board~~)) student achievement council, facilitate transfer of credit policies and agreements between institutions of the state training system, and encourage articulation agreements for programs encompassing two years of secondary workforce education and two years of postsecondary workforce education;

(15) In cooperation with the ((~~higher education coordinating board~~)) student achievement council, facilitate transfer of credit policies and agreements between private training institutions and institutions of the state training system;

(16) Develop policy objectives for the workforce investment act, P.L. 105-220, or its successor; develop coordination criteria for activities under the act with related programs and services provided by state and local education and training agencies; and ensure that entrepreneurial training opportunities are available through programs of each local workforce investment board in the state;

(17) Make recommendations to the commission of student assessment, the state board of education, and the superintendent of public instruction, concerning basic skill competencies and essential core competencies for K-12 education. Basic skills for this purpose shall be reading, writing, computation, speaking, and critical thinking, essential core competencies for this purpose shall be English, math, science/technology, history, geography, and critical thinking. The board shall monitor the development of and provide advice concerning secondary curriculum which integrates vocational and academic education;

(18) Establish and administer programs for marketing and outreach to businesses and potential program participants;

(19) Facilitate the location of support services, including but not limited to, child care, financial aid, career counseling, and job placement services, for students and trainees at institutions in the state training system, and advocate for support services for trainees and students in the state training system;

(20) Facilitate private sector assistance for the state training system, including but not limited to: Financial assistance, rotation of private and public personnel, and vocational counseling;

(21) Facilitate the development of programs for school-to-work transition that combine classroom education and on-the-job training, including entrepreneurial education and training, in industries and occupations without a significant number of apprenticeship programs;

(22) Include in the planning requirements for local workforce investment boards a requirement that the local workforce investment boards specify how entrepreneurial training is to be offered through the one-stop system required under the workforce investment act, P.L. 105-220, or its successor;

(23) Encourage and assess progress for the equitable representation of racial and ethnic minorities, women, and people with disabilities among the students, teachers, and administrators of the state training system. Equitable, for this purpose, shall mean substantially proportional to their percentage of the state population in the geographic area served. This function of the board shall in no way lessen more stringent state or federal requirements for representation of racial and ethnic minorities, women, and people with disabilities;

(24) Participate in the planning and policy development of governor set-aside grants under P.L. 97-300, as amended;

(25) Administer veterans' programs, licensure of private vocational schools, the job skills program, and the Washington award for vocational excellence;

(26) Allocate funding from the state job training trust fund;

(27) Work with the director of ((~~community, trade, and economic development~~)) commerce and the economic development commission to ensure coordination among workforce training priorities, the long-term economic development strategy of the economic development commission, and economic development and entrepreneurial development efforts, including but not limited to assistance to industry clusters;

(28) Conduct research into workforce development programs designed to reduce the high unemployment rate among young people between approximately eighteen and twenty-four years of age. In consultation with the operating agencies, the board shall advise the governor and legislature on policies and programs to alleviate the high unemployment rate among young people. The research shall include disaggregated demographic information and, to the extent possible, income data for adult youth. The research shall also include a comparison of the effectiveness of programs examined as a part of the research conducted in this subsection in relation to the public investment made in these programs in reducing unemployment of young adults. The board shall report to the appropriate committees of the legislature by November 15, 2008, and every two years thereafter. Where possible, the data reported to the legislative committees should be reported in numbers and in percentages;

(29) Adopt rules as necessary to implement this chapter.

The board may delegate to the director any of the functions of this section.

Sec. 580. RCW 35.104.020 and 2007 c 251 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) "Authority" means a health sciences and services authority created pursuant to this chapter.

(2) "Board" means the governing board of trustees of an authority.

(3) "Director" means ((~~[the director of]~~)) the executive director of the ((~~higher education coordinating board~~)) student achievement council.

(4) "Health sciences and services" means biosciences that advance new therapies and procedures to combat disease and promote public health.

(5) "Local government" means a city, town, or county.

(6) "Sponsoring local government" means a city, town, or county that creates a health sciences and services authority.

Sec. 581. RCW 35.104.040 and 2011 c 155 s 1 are each amended to read as follows:

(1) The ((~~higher education coordinating board~~)) student achievement council may approve applications submitted by local governments for an area's designation as a health sciences and services authority under this chapter. The director must determine the division to review applications submitted by local governments under this chapter. The application for designation must be in the form and manner and contain such information as the ((~~higher education coordinating board~~)) student achievement council may prescribe, provided the application:

(a) Contains sufficient information to enable the director to determine the viability of the proposal;

(b) Demonstrates that an ordinance or resolution has been passed by the legislative authority of a local government that delineates the boundaries of an area that may be designated an authority;

(c) Is submitted on behalf of the local government, or, if that office does not exist, by the legislative body of the local government;

(d) Demonstrates that the public funds directed to programs or facilities in the authority will leverage private sector resources and contributions to activities to be performed;

(e) Provides a plan or plans for the development of the authority as an entity to advance as a cluster for health sciences education, health sciences research, biotechnology development, biotechnology product commercialization, and/or health care services; and

(f) Demonstrates that the state has previously provided funds to health sciences and services programs or facilities in the applicant city, town, or county.

(2) The director must determine the division to develop criteria to evaluate the application. The criteria must include:

(a) The presence of infrastructure capable of spurring development of the area as a center of health sciences and services;

(b) The presence of higher education facilities where undergraduate or graduate coursework or research is conducted; and

(c) The presence of facilities in which health services are provided.

(3) There may be no more than two authorities statewide.

(4) An authority may only be created in a county with a population of less than one million persons and located east of the crest of the Cascade mountains.

(5) The director may reject or approve an application. When denying an application, the director must specify the application's deficiencies. The decision regarding such designation as it relates to a specific local government is final; however, a rejected application may be resubmitted.

(6) Applications are due by December 31, 2010, and must be processed within sixty days of submission.

(7) The director may, at his or her discretion, amend the boundaries of an authority upon the request of the local government.

(8) The ((~~higher education coordinating board~~)) student achievement council may adopt any rules necessary to implement this chapter.

(9) The ((~~higher education coordinating board~~)) student achievement council must develop evaluation criteria that enables the local governments to measure the effectiveness of the program.

Sec. 582. RCW 42.17A.705 and 2011 1st sp.s. c 43 s 109 are each amended to read as follows:

For the purposes of RCW 42.17A.700, "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the director of the department of services for the blind, the chief information officer of the office of chief information officer, the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the director of enterprise services, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the human resources

director, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, Eastern Washington University board of trustees, Washington economic development finance authority, Washington energy northwest executive board, The Evergreen State College board of trustees, executive ethics board, fish and wildlife commission, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, ((~~higher education coordinating board~~)) student achievement council, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, state investment board, commission on judicial conduct, legislative ethics board, life sciences discovery fund authority board of trustees, liquor control board, lottery commission, Pacific Northwest electric power and conservation planning council, parks and recreation commission, Washington personnel resources board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, shorelines hearings board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington State University board of regents, and Western Washington University board of trustees.

Sec. 583. RCW 43.06.115 and 1998 c 245 s 47 are each amended to read as follows:

(1) The governor may, by executive order, after consultation with or notification of the executive-legislative committee on economic development created by chapter . . . (Senate Bill No. 5300), Laws of 1993, declare a community to be a "military impacted area." A "military impacted area" means a community or communities, as identified in the executive order, that experience serious social and economic hardships because of a change in defense spending by the federal government in that community or communities.

(2) If the governor executes an order under subsection (1) of this section, the governor shall establish a response team to coordinate state efforts to assist the

military impacted community. The response team may include, but not be limited to, one member from each of the following agencies: (a) The department of ((~~community, trade, and economic development~~)) commerce; (b) the department of social and health services; (c) the employment security department; (d) the state board for community and technical colleges; (e) the ((~~higher education coordinating board~~)) student achievement council; and (f) the department of transportation. The governor may appoint a response team coordinator. The governor shall seek to actively involve the impacted community or communities in planning and implementing a response to the crisis. The governor may seek input or assistance from the community diversification advisory committee, and the governor may establish task forces in the community or communities to assist in the coordination and delivery of services to the local community. The state and community response shall consider economic development, human service, and training needs of the community or communities impacted.

Sec. 584. RCW 43.19.797 and 2011 1st sp.s. c 43 s 734 are each amended to read as follows:

(1) State agencies that are purchasing wireless devices or services must make such purchases through the state master contract, unless the state agency provides to the office of the chief information officer evidence that the state agency is securing its wireless devices or services from another source for a lower cost than through participation in the state master contract.

(2) For the purposes of this section, "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the ((~~higher education coordinating board~~)) student achievement council, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government.

Sec. 585. RCW 43.41.400 and 2009 c 548 s 201 are each amended to read as follows:

(1) An education data center shall be established in the office of financial management. The education data center shall jointly, with the legislative evaluation and accountability program committee, conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system, which includes the department of early learning, the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the workforce training and education coordinating board, the ((~~higher education coordinating board~~)) student achievement council, public and private nonprofit four-year institutions of higher education, and the employment security department. The education data center shall conduct collaborative analyses under this section with the legislative evaluation and accountability program committee and provide data electronically to the legislative evaluation and accountability program committee, to the extent permitted by state and federal confidentiality requirements. The education data center shall be considered an authorized representative of the state educational agencies in this

section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(2) The education data center shall:

(a) In consultation with the legislative evaluation and accountability program committee and the agencies and organizations participating in the education data center, identify the critical research and policy questions that are intended to be addressed by the education data center and the data needed to address the questions;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups, and complete P-20 research projects;

(c) Collaborate with the legislative evaluation and accountability program committee and the education and fiscal committees of the legislature in identifying the data to be compiled and analyzed to ensure that legislative interests are served;

(d) Annually provide to the K-12 data governance group a list of data elements and data quality improvements that are necessary to answer the research and policy questions identified by the education data center and have been identified by the legislative committees in (c) of this subsection. Within three months of receiving the list, the K-12 data governance group shall develop and transmit to the education data center a feasibility analysis of obtaining or improving the data, including the steps required, estimated time frame, and the financial and other resources that would be required. Based on the analysis, the education data center shall submit, if necessary, a recommendation to the legislature regarding any statutory changes or resources that would be needed to collect or improve the data;

(e) Monitor and evaluate the education data collection systems of the organizations and agencies represented in the education data center ensuring that data systems are flexible, able to adapt to evolving needs for information, and to the extent feasible and necessary, include data that are needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(f) Track enrollment and outcomes through the public centralized higher education enrollment system;

(g) Assist other state educational agencies' collaborative efforts to develop a long-range enrollment plan for higher education including estimates to meet demographic and workforce needs;

(h) Provide research that focuses on student transitions within and among the early learning, K-12, and higher education sectors in the P-20 system; and

(i) Make recommendations to the legislature as necessary to help ensure the goals and objectives of this section and RCW 28A.655.210 and 28A.300.507 are met.

(3) The department of early learning, superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, ((~~higher education coordinating board~~)) student achievement council, public four-year institutions of higher education, and employment security department shall work with the education data center to

develop data-sharing and research agreements, consistent with applicable security and confidentiality requirements, to facilitate the work of the center. Private, nonprofit institutions of higher education that provide programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education data center, consistent with applicable security and confidentiality requirements. The education data center shall make data from collaborative analyses available to the education agencies and institutions that contribute data to the education data center to the extent allowed by federal and state security and confidentiality requirements applicable to the data of each contributing agency or institution.

Sec. 586. RCW 43.41A.100 and 2011 1st sp.s. c 43 s 721 are each amended to read as follows:

(1) In overseeing the technical aspects of the K-20 network, the office is not intended to duplicate the statutory responsibilities of the ((~~higher education coordinating board~~)) student achievement council, the superintendent of public instruction, the state librarian, or the governing boards of the institutions of higher education.

(2) The office may not interfere in any curriculum or legally offered programming offered over the K-20 network.

(3) The responsibility to review and approve standards and common specifications for the K-20 network remains the responsibility of the office under RCW 43.41A.025.

(4) The coordination of telecommunications planning for the common schools remains the responsibility of the superintendent of public instruction. Except as set forth in RCW 43.41A.025(2)(f), the office may recommend, but not require, revisions to the superintendent's telecommunications plans.

Sec. 587. RCW 43.88.090 and 2005 c 386 s 2 are each amended to read as follows:

(1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The governor shall communicate statewide priorities to agencies for use in developing biennial budget recommendations for their agency and shall seek public involvement and input on these priorities. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110. The estimates must reflect that the agency

considered any alternatives to reduce costs or improve service delivery identified in the findings of a performance audit of the agency by the joint legislative audit and review committee. Nothing in this subsection requires performance audit findings to be published as part of the budget.

(2) Each state agency shall define its mission and establish measurable goals for achieving desirable results for those who receive its services and the taxpayers who pay for those services. Each agency shall also develop clear strategies and timelines to achieve its goals. This section does not require an agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. The mission and goals of each agency must conform to statutory direction and limitations.

(3) For the purpose of assessing activity performance, each state agency shall establish quality and productivity objectives for each major activity in its budget. The objectives must be consistent with the missions and goals developed under this section. The objectives must be expressed to the extent practicable in outcome-based, objective, and measurable form unless an exception to adopt a different standard is granted by the office of financial management and approved by the legislative committee on performance review. Objectives must specifically address the statutory purpose or intent of the program or activity and focus on data that measure whether the agency is achieving or making progress toward the purpose of the activity and toward statewide priorities. The office of financial management shall provide necessary professional and technical assistance to assist state agencies in the development of strategic plans that include the mission of the agency and its programs, measurable goals, strategies, and performance measurement systems.

(4) Each state agency shall adopt procedures for and perform continuous self-assessment of each activity, using the mission, goals, objectives, and measurements required under subsections (2) and (3) of this section. The assessment of the activity must also include an evaluation of major information technology systems or projects that may assist the agency in achieving or making progress toward the activity purpose and statewide priorities. The evaluation of proposed major information technology systems or projects shall be in accordance with the standards and policies established by the information services board. Agencies' progress toward the mission, goals, objectives, and measurements required by subsections (2) and (3) of this section is subject to review as set forth in this subsection.

(a) The office of financial management shall regularly conduct reviews of selected activities to analyze whether the objectives and measurements submitted by agencies demonstrate progress toward statewide results.

(b) The office of financial management shall consult with: (i) The ((~~higher education coordinating board and the state board for community and technical colleges~~)) four-year institutions of higher education in those reviews that involve four-year institutions of higher education; and (ii) the state board for community and technical colleges in those reviews that involve two-year institutions of higher education.

(c) The goal is for all major activities to receive at least one review each year.

(d) The office of financial management shall consult with the information services board when conducting reviews of major information technology

systems in use by state agencies. The goal is that reviews of these information technology systems occur periodically.

(5) It is the policy of the legislature that each agency's budget recommendations must be directly linked to the agency's stated mission and program, quality, and productivity goals and objectives. Consistent with this policy, agency budget proposals must include integration of performance measures that allow objective determination of an activity's success in achieving its goals. When a review under subsection (4) of this section or other analysis determines that the agency's objectives demonstrate that the agency is making insufficient progress toward the goals of any particular program or is otherwise underachieving or inefficient, the agency's budget request shall contain proposals to remedy or improve the selected programs. The office of financial management shall develop a plan to merge the budget development process with agency performance assessment procedures. The plan must include a schedule to integrate agency strategic plans and performance measures into agency budget requests and the governor's budget proposal over three fiscal biennia. The plan must identify those agencies that will implement the revised budget process in the 1997-1999 biennium, the 1999-2001 biennium, and the 2001-2003 biennium. In consultation with the legislative fiscal committees, the office of financial management shall recommend statutory and procedural modifications to the state's budget, accounting, and reporting systems to facilitate the performance assessment procedures and the merger of those procedures with the state budget process. The plan and recommended statutory and procedural modifications must be submitted to the legislative fiscal committees by September 30, 1996.

(6) In reviewing agency budget requests in order to prepare the governor's biennial budget request, the office of financial management shall consider the extent to which the agency's activities demonstrate progress toward the statewide budgeting priorities, along with any specific review conducted under subsection (4) of this section.

(7) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate.

Sec. 588. RCW 43.105.825 and 2004 c 275 s 62 are each amended to read as follows:

(1) In overseeing the technical aspects of the K-20 network, the information services board is not intended to duplicate the statutory responsibilities of the ((~~higher education coordinating board~~)) student achievement council, the

superintendent of public instruction, the information services board, the state librarian, or the governing boards of the institutions of higher education.

(2) The board may not interfere in any curriculum or legally offered programming offered over the network.

(3) The responsibility to review and approve standards and common specifications for the network remains the responsibility of the information services board under RCW 43.105.041.

(4) The coordination of telecommunications planning for the common schools remains the responsibility of the superintendent of public instruction. Except as set forth in RCW 43.105.041(1)(d), the board may recommend, but not require, revisions to the superintendent's telecommunications plans.

Sec. 589. RCW 43.215.090 and 2011 c 177 s 2 are each amended to read as follows:

(1) The early learning advisory council is established to advise the department on statewide early learning issues that would build a comprehensive system of quality early learning programs and services for Washington's children and families by assessing needs and the availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Councilmembers shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than twenty-three members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the ((~~higher education coordinating board~~)) student achievement council, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint seven leaders in early childhood education, with at least one representative with experience or expertise in one or more of the areas such as the following: The K-12 system, family day care providers, and child care centers with four of the seven governor's appointees made as follows:

(i) The head start state collaboration office director or the director's designee;

(ii) A representative of a head start, early head start, migrant/seasonal head start, or tribal head start program;

(iii) A representative of a local education agency; and

(iv) A representative of the state agency responsible for programs under section 619 or part C of the federal individuals with disabilities education act;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory group, to be appointed by the governor;

(f) One representative of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) The council shall appoint two members and stakeholders with expertise in early learning to sit on the technical working group created in section 2, chapter 234, Laws of 2010.

(8) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(9) The department shall provide staff support to the council.

Sec. 590. RCW 43.330.310 and 2010 c 187 s 2 are each amended to read as follows:

(1) The legislature establishes a comprehensive green economy jobs growth initiative based on the goal of, by 2020, increasing the number of green economy jobs to twenty-five thousand from the eight thousand four hundred green economy jobs the state had in 2004.

(2) The department, in consultation with the employment security department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the ((~~higher education coordinating board~~)) student achievement council, shall develop a defined list of terms, consistent with current workforce and economic development terms, associated with green economy industries and jobs.

(3)(a) The employment security department, in consultation with the department, the state workforce training and education coordinating board, the state board for community and technical colleges, the ((~~higher education coordinating board~~)) student achievement council, Washington State University small business development center, and the Washington State University extension energy program, shall conduct labor market research to analyze the current labor market and projected job growth in the green economy, the current and projected recruitment and skill requirement of green economy industry employers, the wage and benefits ranges of jobs within green economy

industries, and the education and training requirements of entry-level and incumbent workers in those industries.

(i) The employment security department shall conduct an analysis of occupations in the forest products industry to: (A) Determine key growth factors and employment projections in the industry; and (B) define the education and skill standards required for current and emerging green occupations in the industry.

(ii) The term "forest products industry" must be given a broad interpretation when implementing (a)(i) of this subsection and includes, but is not limited to, businesses that grow, manage, harvest, transport, and process forest, wood, and paper products.

(b) The University of Washington business and economic development center shall: Analyze the current opportunities for and participation in the green economy by minority and women-owned business enterprises in Washington; identify existing barriers to their successful participation in the green economy; and develop strategies with specific policy recommendations to improve their successful participation in the green economy. The research may be informed by the research of the Puget Sound regional council prosperity partnership, as well as other entities. The University of Washington business and economic development center shall report to the appropriate committees of the house of representatives and the senate on their research, analysis, and recommendations by December 1, 2008.

(4) Based on the findings from subsection (3) of this section, the employment security department, in consultation with the department and taking into account the requirements and goals of chapter 14, Laws of 2008 and other state clean energy and energy efficiency policies, shall propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green economy. The employment security department and the department shall take into account which jobs within green economy industries will be considered high-wage occupations and occupations that are part of career pathways to the same, based on family-sustaining wage and benefits ranges. These designations, and the results of the employment security department's broader labor market research, shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the ((~~higher education coordinating board~~)) student achievement council.

(5) The department shall identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270.

(6) The department, consistent with the priorities established by the state economic development commission, shall:

(a) Develop targeting criteria for existing investments, and make recommendations for new or expanded financial incentives and comprehensive strategies, to recruit, retain, and expand green economy industries and small businesses; and

(b) Make recommendations for new or expanded financial incentives and comprehensive strategies to stimulate research and development of green

technology and innovation, including designating innovation partnership zones linked to the green economy.

(7) For the purposes of this section, "target populations" means (a) entry-level or incumbent workers in high-demand green industries who are in, or are preparing for, high-wage occupations; (b) dislocated workers in declining industries who may be retrained for high-wage occupations in high-demand green industries; (c) dislocated agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in high-demand green industries; (d) eligible veterans or national guard members; (e) disadvantaged populations; or (f) anyone eligible to participate in the state opportunity grant program under RCW 28B.50.271.

(8) The legislature directs the state workforce training and education coordinating board to create and pilot green industry skill panels. These panels shall consist of business representatives from: Green industry sectors, including but not limited to forest product companies, companies engaged in energy efficiency and renewable energy production, companies engaged in pollution prevention, reduction, and mitigation, and companies engaged in green building work and green transportation; labor unions representing workers in those industries or labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers for these industries; state and local veterans agencies; employer associations; educational institutions; and local workforce development councils within the region that the panels propose to operate; and other key stakeholders as determined by the applicant. Any of these stakeholder organizations are eligible to receive grants under this section and serve as the intermediary that convenes and leads the panel. Panel applicants must provide labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the state's clean energy economy as identified in this section, for high-wage occupations, or occupations that are part of career pathways to the same, within the relevant industry sector. The panel shall:

(a) Conduct labor market and industry analyses, in consultation with the employment security department, and drawing on the findings of its research when available;

(b) Plan strategies to meet the recruitment and training needs of the industry and small businesses; and

(c) Leverage and align other public and private funding sources.

(9) The green industries jobs training account is created in the state treasury. Moneys from the account must be utilized to supplement the state opportunity grant program established under RCW 28B.50.271. All receipts from appropriations directed to the account must be deposited into the account. Expenditures from the account may be used only for the activities identified in this subsection. The state board for community and technical colleges, in consultation with the state workforce training and education coordinating board, informed by the research of the employment security department and the strategies developed in this section, may authorize expenditures from the account. The state board for community and technical colleges must distribute grants from the account on a competitive basis.

(a)(i) Allowable uses of these grant funds, which should be used when other public or private funds are insufficient or unavailable, may include:

(A) Curriculum development;

(B) Transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green industries;

(C) Workforce education to target populations; and

(D) Adult basic and remedial education as necessary linked to occupation skills training.

(ii) Allowable uses of these grant funds do not include student assistance and support services available through the state opportunity grant program under RCW 28B.50.271.

(b) Applicants eligible to receive these grants may be any organization or a partnership of organizations that has demonstrated expertise in:

(i) Implementing effective education and training programs that meet industry demand; and

(ii) Recruiting and supporting, to successful completion of those training programs carried out under these grants, the target populations of workers.

(c) In awarding grants from the green industries jobs training account, the state board for community and technical colleges shall give priority to applicants that demonstrate the ability to:

(i) Use labor market and industry analysis developed by the employment security department and green industry skill panels in the design and delivery of the relevant education and training program, and otherwise utilize strategies developed by green industry skill panels;

(ii) Leverage and align existing public programs and resources and private resources toward the goal of recruiting, supporting, educating, and training target populations of workers;

(iii) Work collaboratively with other relevant stakeholders in the regional economy;

(iv) Link adult basic and remedial education, where necessary, with occupation skills training;

(v) Involve employers and, where applicable, labor unions in the determination of relevant skills and competencies and, where relevant, the validation of career pathways; and

(vi) Ensure that supportive services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the targeted population of workers.

Sec. 591. RCW 43.330.375 and 2010 c 187 s 3 are each amended to read as follows:

(1) The department and the workforce board must:

(a) Coordinate efforts across the state to ensure that federal training and education funds are captured and deployed in a focused and effective manner in order to support green economy projects and accomplish the goals of the evergreen jobs initiative;

(b) Accelerate and coordinate efforts by state and local organizations to identify, apply for, and secure all sources of funds, particularly those created by the 2009 American recovery and reinvestment act, and to ensure that distributions of funding to local organizations are allocated in a manner that is time-efficient and user-friendly for the local organizations. Local organizations eligible to receive support include but are not limited to:

(i) Associate development organizations;

(ii) Workforce development councils;

(iii) Public utility districts; and

(iv) Community action agencies;

(c) Support green economy projects at both the state and local level by developing a process and a framework to provide, at a minimum:

(i) Administrative and technical assistance;

(ii) Assistance with and expediting of permit processes; and

(iii) Priority consideration of opportunities leading to exportable green economy goods and services, including renewable energy technology;

(d) Coordinate local and state implementation of projects using federal funds to ensure implementation is time-efficient and user-friendly for local organizations;

(e) Emphasize through both support and outreach efforts, projects that:

(i) Have a strong and lasting economic or environmental impact;

(ii) Lead to a domestically or internationally exportable good or service, including renewable energy technology;

(iii) Create training programs leading to a credential, certificate, or degree in a green economy field;

(iv) Strengthen the state's competitiveness in a particular sector or cluster of the green economy;

(v) Create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations;

(vi) Comply with prevailing wage provisions of chapter 39.12 RCW;

(vii) Ensure at least fifteen percent of labor hours are performed by apprentices;

(f) Identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270;

(g) Identify barriers to the growth of green jobs in traditional industries such as the forest products industry;

(h) Identify statewide performance metrics for projects receiving agency assistance. Such metrics may include:

(i) The number of new green jobs created each year, their wage levels, and, to the extent determinable, the percentage of new green jobs filled by veterans, members of the national guard, and low-income and disadvantaged populations;

(ii) The total amount of new federal funding secured, the respective amounts allocated to the state and local levels, and the timeliness of deployment of new funding by state agencies to the local level;

(iii) The timeliness of state deployment of funds and support to local organizations; and

(iv) If available, the completion rates, time to completion, and training-related placement rates for green economy postsecondary training programs;

(i) Identify strategies to allocate existing and new funding streams for green economy workforce training programs and education to emphasize those leading to a credential, certificate, or degree in a green economy field;

(j) Identify and implement strategies to allocate existing and new funding streams for workforce development councils and associate development organizations to increase their effectiveness and efficiency and increase local

capacity to respond rapidly and comprehensively to opportunities to attract green jobs to local communities;

(k) Develop targeting criteria for existing investments that are consistent with the economic development commission's economic development strategy and the goals of this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

(l) Make and support outreach efforts so that residents of Washington, particularly members of target populations, become aware of educational and employment opportunities identified and funded through the evergreen jobs act.

(2) The department and the workforce board must provide semiannual performance reports to the governor and appropriate committees of the legislature on:

(a) Actual statewide performance based on the performance measures identified in subsection (1)(h) of this section;

(b) How the state is emphasizing and supporting projects that lead to a domestically or internationally exportable good or service, including renewable energy technology;

(c) A list of projects supported, created, or funded in furtherance of the goals of the evergreen jobs initiative and the actions taken by state and local organizations, including the effectiveness of state agency support provided to local organizations as directed in subsection (1)(b) and (c) of this section;

(d) Recommendations for new or expanded financial incentives and comprehensive strategies to:

(i) Recruit, retain, and expand green economy industries and small businesses; and

(ii) Stimulate research and development of green technology and innovation, which may include designating innovation partnership zones linked to the green economy;

(e) Any information that associate development organizations and workforce development councils choose to provide to appropriate legislative committees regarding the effectiveness, timeliness, and coordination of support provided by state agencies under this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

(f) Any recommended statutory changes necessary to increase the effectiveness of the evergreen jobs initiative and state responsiveness to local agencies and organizations.

(3) The definitions, designations, and results of the employment security department's broader labor market research under RCW 43.330.010 shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the ((~~higher education coordinating board~~)) student achievement council.

Sec. 592. RCW 47.80.090 and 2009 c 459 s 2 are each amended to read as follows:

(1) A regional transportation planning organization containing any county with a population in excess of one million in collaboration with representatives from the department of ecology, the department of ((~~community, trade, and economic development~~)) commerce, local governments, and the office of regulatory assistance must seek federal or private funding for the planning for,

deployment of, or regulations concerning electric vehicle infrastructure. These efforts should include:

(a) Development of short-term and long-term plans outlining how state, regional, and local government construction may include electric vehicle infrastructure in publicly available off-street parking and government fleet vehicle parking, including what ratios of charge spots to parking may be appropriate based on location or type of facility or building;

(b) Consultations with the state building code council and the department of labor and industries to coordinate the plans with state standards for new residential, commercial, and industrial buildings to ensure that the appropriate electric circuitry is installed to support electric vehicle infrastructure;

(c) Consultation with the workforce development council and the ((~~higher education coordinating board~~)) student achievement council to ensure the development of appropriate educational and training opportunities for citizens of the state in support of the transition of some portion of vehicular transportation from combustion to electric vehicles;

(d) Development of an implementation plan for counties with a population greater than five hundred thousand with the goal of having public and private parking spaces, in the aggregate, be ten percent electric vehicle ready by December 31, 2018; and

(e) Development of model ordinances and guidance for local governments for siting and installing electric vehicle infrastructure, in particular battery charging stations, and appropriate handling, recycling, and storage of electric vehicle batteries and equipment.

(2) These plans and any recommendations developed as a result of the consultations required by this section must be submitted to the legislature by December 31, 2010, or as soon as reasonably practicable after the securing of any federal or private funding. Priority will be given to the activities in subsection (1)(e) of this section and any ordinances or guidance that is developed will be submitted to the legislature, the department of ((~~community, trade, and economic development~~)) commerce, and affected local governments prior to December 31, 2010, if completed.

(3) The definitions in this subsection apply ((~~through [throughout]~~)) throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

Sec. 593. RCW 70.180.110 and 1998 c 245 s 120 are each amended to read as follows:

(1) The department, in consultation with at least the ((~~higher education coordinating board~~)) student achievement council, the state board for community and technical colleges, the superintendent of public instruction, and state-supported education programs in medicine, pharmacy, and nursing, shall develop a plan for increasing rural training opportunities for students in medicine, pharmacy, and nursing. The plan shall provide for direct exposure to rural health professional practice conditions for students planning careers in medicine, pharmacy, and nursing.

(2) The department and the medical, pharmacy, and nurse education programs shall:

(a) Inventory existing rural-based clinical experience programs, including internships, clerkships, residencies, and other training opportunities available to students pursuing degrees in nursing, pharmacy, and medicine;

(b) Identify where training opportunities do not currently exist and are needed;

(c) Develop recommendations for improving the availability of rural training opportunities;

(d) Develop recommendations on establishing agreements between education programs to assure that all students in medical, pharmacist, and nurse education programs in the state have access to rural training opportunities; and

(e) Review private and public funding sources to finance rural-based training opportunities.

Sec. 594. RCW 74.13.570 and 2005 c 93 s 2 are each amended to read as follows:

(1) The department shall establish an oversight committee composed of staff from the children's administration of the department, the office of the superintendent of public instruction, the ((~~higher education coordinating board~~)) student achievement council, foster youth, former foster youth, foster parents, and advocacy agencies to develop strategies for maintaining foster children in the schools they were attending at the time they entered foster care and to promote opportunities for foster youth to participate in postsecondary education or training.

(2) The duties of the oversight committee shall include, but are not limited to:

(a) Developing strategies for school-based recruitment of foster homes;

(b) Monitoring the progress of current pilot projects that assist foster children to continue attending the schools they were attending at the time they entered foster care;

(c) Overseeing the expansion of the number of pilot projects;

(d) Promoting the use of best practices, throughout the state, demonstrated by the pilot projects and other programs relating to maintaining foster children in the schools they were attending at the time they entered foster care;

(e) Informing the legislature of the status of efforts to maintain foster children in the schools they were attending at the time they entered foster care;

(f) Assessing the scope and nature of statewide need among current and former foster youth for assistance to pursue and participate in postsecondary education or training opportunities;

(g) Identifying available sources of funding available in the state for services to former foster youth to pursue and participate in postsecondary education or training opportunities;

(h) Reviewing the effectiveness of activities in the state to support former foster youth to pursue and participate in postsecondary education or training opportunities;

(i) Identifying new activities, or existing activities that should be modified or expanded, to best meet statewide needs; and

(j) Reviewing on an ongoing basis the progress toward improving educational and vocational outcomes for foster youth.

PART VI
REFERENCES TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE

Sec. 601. RCW 28A.175.135 and 2011 c 288 s 3 are each amended to read as follows:

Subject to funds appropriated for this purpose, funds shall be allocated as specified in the omnibus appropriations act to support the PASS program through the following programs:

(1) The opportunity internship program under RCW 28C.18.160 through 28C.18.168;

(2) The jobs for America's graduates program administered through the office of the superintendent of public instruction;

(3) The building bridges program under RCW 28A.175.025, to be used to expand programs that have been implemented by building bridges partnerships and determined by the building bridges work group to be successful in reducing dropout rates, or to replicate such programs in new partnerships; and

(4) Individualized student support services provided by a college scholarship organization with expertise in managing scholarships for low-income, high potential students and foster care youth under contract with the ((~~higher education coordinating board~~)) office of student financial assistance, including but not limited to college and career advising, counseling, tutoring, community mentor programs, and leadership development.

Sec. 602. RCW 28B.12.070 and 2011 1st sp.s. c 11 s 147 are each amended to read as follows:

Each eligible institution shall submit to the office of student financial assistance an annual report in accordance with such requirements as are adopted by the ((~~board~~)) office.

Sec. 603. RCW 28B.15.764 and 1985 c 370 s 81 are each amended to read as follows:

The ((~~board~~)) office and institutions of higher education shall work cooperatively to implement RCW 28B.15.762 and to publicize this program to eligible students.

Sec. 604. RCW 28B.76.505 and 2011 1st sp.s. c 11 s 107 are each amended to read as follows:

(1) The investment of funds from all scholarship endowment programs administered by the office shall be managed by the state investment board.

(2) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in scholarship endowment funds. All investment and operating costs associated with the investment of a scholarship endowment fund shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investments of the fund belong to the fund.

(3) Funds from all scholarship endowment programs administered by the ((~~board~~)) office shall be in the custody of the state treasurer.

(4) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care pursuant to RCW 43.33A.140 and the investment policies established by the state investment board.

(5) As deemed appropriate by the state investment board, money in a scholarship endowment fund may be commingled for investment with other funds subject to investment by the state investment board.

(6) The authority to establish all policies relating to scholarship endowment funds, other than the investment policies in subsections (2) through (5) of this section, resides with the office.

(7) The office may request and accept moneys from the state investment board. With the exception of expenses of the state investment board in subsection (2) of this section, disbursements from the fund shall be made only on the authorization of the office and money in the fund may be spent only for the purposes of the endowment programs as specified in the authorizing chapter of each program.

(8) The state investment board shall routinely consult and communicate with the office on the investment policy, earnings of the scholarship endowment funds, and related needs of the programs.

Sec. 605. RCW 28B.92.080 and 2009 c 238 s 9 are each amended to read as follows:

Except for opportunity internship graduates whose eligibility is provided under RCW 28B.92.084, for a student to be eligible for a state need grant a student must:

(1) Be a "needy student" or "disadvantaged student" as determined by the ((~~board~~)) office in accordance with RCW 28B.92.030 (((~~(3)~~))) (1) and (4);

(2) Have been domiciled within the state of Washington for at least one year;

(3) Be enrolled or accepted for enrollment on at least a half-time basis at an institution of higher education in Washington as defined in RCW 28B.92.030(((~~(1)~~))) (3);

(4) Until June 30, 2011, to the extent funds are specifically appropriated for this purpose, and subject to any terms and conditions specified in the omnibus appropriations act, be enrolled or accepted for enrollment for at least three quarter credits or the equivalent semester credits at an institution of higher education in Washington as defined in RCW 28B.92.030(((~~(1)~~))) (3); and

(5) Have complied with all the rules adopted by the ((~~board~~)) council for the administration of this chapter.

Sec. 606. RCW 28B.95.020 and 2011 1st sp.s. c 11 s 168 are each amended to read as follows:

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

(1) "Academic year" means the regular nine-month, three-quarter, or two-semester period annually occurring between August 1st and July 31st.

(2) "Account" means the Washington advanced college tuition payment program account established for the deposit of all money received by the ((~~board~~)) office from eligible purchasers and interest earnings on investments of funds in the account, as well as for all expenditures on behalf of eligible beneficiaries for the redemption of tuition units and for the development of any authorized college savings program pursuant to RCW 28B.95.150.

(3) "Committee on advanced tuition payment" or "committee" means a committee of the following members: The state treasurer, the director of the office of financial management, the director of the office, or their designees, and two members to be appointed by the governor, one representing program participants and one private business representative with marketing, public relations, or financial expertise.

(4) "Contractual obligation" means a legally binding contract of the state with the purchaser and the beneficiary establishing that purchases of tuition units will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase.

(5) "Eligible beneficiary" means the person for whom the tuition unit will be redeemed for attendance at an institution of higher education. The beneficiary is that person named by the purchaser at the time that a tuition unit contract is accepted by the governing body. Qualified organizations, as allowed under section 529 of the federal internal revenue code, purchasing tuition unit contracts as future scholarships need not designate a beneficiary at the time of purchase.

(6) "Eligible purchaser" means an individual or organization that has entered into a tuition unit contract with the governing body for the purchase of tuition units for an eligible beneficiary. The state of Washington may be an eligible purchaser for purposes of purchasing tuition units to be held for granting Washington college bound scholarships.

(7) "Full-time tuition charges" means resident tuition charges at a state institution of higher education for enrollments between ten credits and eighteen credit hours per academic term.

(8) "Governing body" means the committee empowered by the legislature to administer the Washington advanced college tuition payment program.

(9) "Institution of higher education" means an institution that offers education beyond the secondary level and is recognized by the internal revenue service under chapter 529 of the internal revenue code.

(10) "Investment board" means the state investment board as defined in chapter 43.33A RCW.

(11) "Office" means the office of student financial assistance as defined in chapter 28B.76 RCW.

(12) "State institution of higher education" means institutions of higher education as defined in RCW 28B.10.016.

(13) "Tuition and fees" means undergraduate tuition and services and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the

nearest whole dollar. For purposes of this chapter, services and activities fees do not include fees charged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities.

(14) "Tuition unit contract" means a contract between an eligible purchaser and the governing body, or a successor agency appointed for administration of this chapter, for the purchase of tuition units for a specified beneficiary that may be redeemed at a later date for an equal number of tuition units.

(15) "Unit purchase price" means the minimum cost to purchase one tuition unit for an eligible beneficiary. Generally, the minimum purchase price is one percent of the undergraduate tuition and fees for the current year, rounded to the nearest whole dollar, adjusted for the costs of administration and adjusted to ensure the actuarial soundness of the account. The analysis for price setting shall also include, but not be limited to consideration of past and projected patterns of tuition increases, program liability, past and projected investment returns, and the need for a prudent stabilization reserve.

Sec. 607. RCW 28B.103.030 and 1994 c 234 s 7 are each amended to read as follows:

(1) Participants in the conditional scholarship program incur an obligation to repay the conditional scholarship, with interest, unless they serve in the Washington national guard for one additional year for each year of conditional scholarship received, under rules adopted by the office.

(2) The entire principal and interest of each yearly repayment shall be forgiven for each additional year in which a participant serves in the Washington national guard, under rules adopted by the office.

(3) If a participant elects to repay the conditional scholarship, the period of repayment shall be four years, with payments accruing quarterly commencing nine months from the date that the participant leaves the Washington national guard or withdraws from the institution of higher education, whichever comes first. The interest rate on the repayments shall be eight percent per year. Provisions for deferral and forgiveness shall be determined by the office.

(4) The office is responsible for collection of repayments made under this section. The office shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of law, including wage garnishment if necessary. The office is responsible to forgive all or parts of such repayments under the criteria established in this section, and shall maintain all necessary records of forgiven payments. The office may contract with the ((~~higher education coordinating board~~)) office of student financial assistance for collection of repayments under this section.

(5) Receipts from the payment of principal or interest paid by or on behalf of participants shall be deposited with the office and shall be used to cover the costs of granting the conditional scholarships, maintaining necessary records, and making collections under subsection (4) of this section. The office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional scholarships to eligible students.

Sec. 608. RCW 28B.108.020 and 2011 1st sp.s. c 11 s 192 are each amended to read as follows:

(1) The American Indian endowed scholarship program is created. The program shall be administered by the office. In administering the program, the ((~~board's~~)) office's powers and duties shall include but not be limited to:

(((~~(1)~~))) (a) Selecting students to receive scholarships, with the assistance of a screening committee composed of persons involved in helping American Indian students to obtain a higher education. The membership of the committee may include, but is not limited to representatives of: Indian tribes, urban Indians, the governor's office of Indian affairs, the Washington state Indian education association, and institutions of higher education;

((~~(2) Adopting necessary rules and guidelines;~~

~~(3)~~)) (b) Publicizing the program;

(((~~(4)~~))) (c) Accepting and depositing donations into the endowment fund created in RCW 28B.108.060;

(((~~(5)~~))) (d) Requesting from the state investment board and accepting from the state treasurer moneys earned from the endowment fund created in RCW 28B.108.060;

(((~~(6)~~))) (e) Soliciting and accepting grants and donations from public and private sources for the program; and

(((~~(7)~~))) (f) Naming scholarships in honor of those American Indians from Washington who have acted as role models.

(2) The student achievement council shall adopt necessary rules and guidelines for the American Indian endowed scholarship program.

Sec. 609. RCW 28B.117.030 and 2011 1st sp.s. c 11 s 221 are each amended to read as follows:

(1) The office shall design and, to the extent funds are appropriated for this purpose, implement, a program of supplemental scholarship and student assistance for students who have emancipated from the state foster care system after having spent at least one year in care.

(2) The office shall convene and consult with an advisory committee to assist with program design and implementation. The committee shall include but not be limited to former foster care youth and their advocates; representatives from the state board for community and technical colleges, and from public and private agencies that assist current and former foster care recipients in their transition to adulthood; and student support specialists from public and private colleges and universities.

(3) To the extent that sufficient funds have been appropriated for this purpose, a student is eligible for assistance under this section if he or she:

(a) Emancipated from foster care on or after January 1, 2007, after having spent at least one year in foster care subsequent to his or her sixteenth birthday;

(b) Is a resident student, as defined in RCW 28B.15.012(2);

(c) Is enrolled with or will enroll on at least a half-time basis with an institution of higher education in Washington state by the age of twenty-one;

(d) Is making satisfactory academic progress toward the completion of a degree or certificate program, if receiving supplemental scholarship assistance;

(e) Has not earned a bachelor's or professional degree; and

(f) Is not pursuing a degree in theology.

(4) A passport to college scholarship under this section:

(a) Shall not exceed resident undergraduate tuition and fees at the highest-priced public institution of higher education in the state; and

(b) Shall not exceed the student's financial need, less a reasonable self-help amount defined by the ((~~board~~)) office, when combined with all other public and private grant, scholarship, and waiver assistance the student receives.

(5) An eligible student may receive a passport to college scholarship under this section for a maximum of five years after the student first enrolls with an institution of higher education or until the student turns age twenty-six, whichever occurs first. If a student turns age twenty-six during an academic year, and would otherwise be eligible for a scholarship under this section, the student shall continue to be eligible for a scholarship for the remainder of the academic year.

(6) The office, in consultation with and with assistance from the state board for community and technical colleges, shall perform an annual analysis to verify that those institutions of higher education at which students have received a scholarship under this section have awarded the student all available need-based and merit-based grant and scholarship aid for which the student qualifies.

(7) In designing and implementing the passport to college student support program under this section, the office, in consultation with and with assistance from the state board for community and technical colleges, shall ensure that a participating college or university:

(a) Has a viable plan for identifying students eligible for assistance under this section, for tracking and enhancing their academic progress, for addressing their unique needs for assistance during school vacations and academic interims, and for linking them to appropriate sources of assistance in their transition to adulthood;

(b) Receives financial and other incentives for achieving measurable progress in the recruitment, retention, and graduation of eligible students.

PART VII
MISCELLANEOUS REFERENCES

Sec. 701. RCW 28B.15.069 and 2005 c 258 s 10 are each amended to read as follows:

(1) The building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the ((~~higher education coordinating board~~)) office of financial management and be based on the actual percentage the building fee is of total tuition for each tuition category in the 1994-95 academic year, rounded up to the nearest half percent.

(2) The governing boards of each institution of higher education, except for the technical colleges, shall charge to and collect from each student a services and activities fee. A governing board may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in student tuition fees for resident undergraduate students: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. These rate adjustments may exceed the fiscal growth factor. For the 2003-04 academic year, the services and activities fee shall be based upon the resident undergraduate

services and activities fee in 2002-03. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(3) Tuition and services and activities fees consistent with subsection (2) of this section shall be set by the state board for community and technical colleges for community college summer school students unless the community college charges fees in accordance with RCW 28B.15.515.

(4) Subject to the limitations of RCW 28B.15.910, each governing board of a community college may charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting courses as it, in its discretion, may determine, consistent with the rules of the state board for community and technical colleges.

(5) The governing board of a college offering an applied baccalaureate degree program under RCW 28B.50.810 may charge tuition fees for those courses above the associate degree level at rates consistent with rules adopted by the state board for community and technical colleges, not to exceed tuition fee rates at the regional universities.

Sec. 702. RCW 28A.600.310 and 2011 1st sp.s. c 10 s 10 are each amended to read as follows:

(1) Eleventh and twelfth grade students or students who have not yet received the credits required for the award of a high school diploma and are eligible to be in the eleventh or twelfth grades may apply to a participating institution of higher education to enroll in courses or programs offered by the institution of higher education. A student receiving home-based instruction enrolling in a public high school for the sole purpose of participating in courses or programs offered by institutions of higher education shall not be counted by the school district in any required state or federal accountability reporting if the student's parents or guardians filed a declaration of intent to provide home-based instruction and the student received home-based instruction during the school year before the school year in which the student intends to participate in courses or programs offered by the institution of higher education. Students receiving home-based instruction under chapter 28A.200 RCW and students attending private schools approved under chapter 28A.195 RCW shall not be required to meet the student learning goals, obtain a certificate of academic achievement or a certificate of individual achievement to graduate from high school, or to master the essential academic learning requirements. However, students are eligible to enroll in courses or programs in participating universities only if the board of directors of the student's school district has decided to participate in the program. Participating institutions of higher education, in consultation with school districts, may establish admission standards for these students. If the institution of higher education accepts a secondary school pupil for enrollment under this section, the institution of higher education shall send written notice to the pupil and the pupil's school district within ten days of acceptance. The notice shall indicate the course and hours of enrollment for that pupil.

(2)(a) In lieu of tuition and fees, as defined in RCW 28B.15.020 and 28B.15.041:

(i) Running start students shall pay to the community or technical college all other mandatory fees as established by each community or technical college and, in addition, the state board for community and technical colleges may authorize

a fee of up to ten percent of tuition and fees as defined in RCW 28B.15.020 and 28B.15.041; and

(ii) All other institutions of higher education operating a running start program may charge running start students a fee of up to ten percent of tuition and fees as defined in RCW 28B.15.020 and 28B.15.041 in addition to technology fees.

(b) The fees charged under this subsection (2) shall be prorated based on credit load.

(3)(a) The institutions of higher education must make available fee waivers for low-income running start students. Each institution must establish a written policy for the determination of low-income students before offering the fee waiver. A student shall be considered low income and eligible for a fee waiver upon proof that the student is currently qualified to receive free or reduced-price lunch. Acceptable documentation of low-income status may also include, but is not limited to, documentation that a student has been deemed eligible for free or reduced-price lunches in the last five years, or other criteria established in the institution's policy.

(b) Institutions of higher education, in collaboration with relevant student associations, shall aim to have students who can benefit from fee waivers take advantage of these waivers. Institutions shall make every effort to communicate to students and their families the benefits of the waivers and provide assistance to students and their families on how to apply. Information about waivers shall, to the greatest extent possible, be incorporated into financial aid counseling, admission information, and individual billing statements. Institutions also shall, to the greatest extent possible, use all means of communication, including but not limited to web sites, online catalogues, admission and registration forms, mass e-mail messaging, social media, and outside marketing to ensure that information about waivers is visible, compelling, and reaches the maximum number of students and families that can benefit.

(4) The pupil's school district shall transmit to the institution of higher education an amount per each full-time equivalent college student at statewide uniform rates for vocational and nonvocational students. The superintendent of public instruction shall separately calculate and allocate moneys appropriated for basic education under RCW 28A.150.260 to school districts for purposes of making such payments and for granting school districts seven percent thereof to offset program related costs. The calculations and allocations shall be based upon the estimated statewide annual average per full-time equivalent high school student allocations under RCW 28A.150.260, excluding small high school enhancements, and applicable rules adopted under chapter 34.05 RCW. The superintendent of public instruction, ((~~the higher education coordinating board~~)) participating institutions of higher education, and the state board for community and technical colleges shall consult on the calculation and distribution of the funds. The funds received by the institution of higher education from the school district shall not be deemed tuition or operating fees and may be retained by the institution of higher education. A student enrolled under this subsection shall be counted for the purpose of meeting enrollment targets in accordance with terms and conditions specified in the omnibus appropriations act.

(5) The state board for community and technical colleges, in collaboration with the other institutions of higher education that participate in the running start

program and the office of the superintendent of public instruction, shall identify, assess, and report on alternatives for providing ongoing and adequate financial support for the program. Such alternatives shall include but are not limited to student tuition, increased support from local school districts, and reallocation of existing state financial support among the community and technical college system to account for differential running start enrollment levels and impacts. The state board for community and technical colleges shall report the assessment of alternatives to the governor and to the appropriate fiscal and policy committees of the legislature by September 1, 2010.

Sec. 703. RCW 28B.15.380 and 2010 c 261 s 4 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College shall exempt the following students from the payment of all tuition fees and services and activities fees:

(1) Children of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a state-supported college or university within ten years of their graduation from high school; and

(2) Surviving spouses of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state.

(3) The governing boards of the state universities, the regional universities, and The Evergreen State College shall report to the ((~~higher education coordinating board~~)) education data center on the annual cost of tuition fees and services and activities fees waived for surviving spouses and children under this section. The ((~~higher education coordinating board~~)) education data center shall consolidate the reports of the waived fees and annually report to the appropriate fiscal and policy committees of the legislature.

Sec. 704. RCW 28B.15.730 and 1993 sp.s. c 18 s 27 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the state board for community and technical colleges and the governing boards of the state universities, the regional universities, the community colleges, and The Evergreen State College may waive all or a portion of the nonresident tuition fees differential for residents of Oregon, upon completion of and to the extent permitted by an agreement between the governing boards of the respective individual institutions of higher education ((~~coordinating board~~)) or the state board for community and technical colleges and appropriate officials and agencies in Oregon granting similar waivers for residents of the state of Washington.

Sec. 705. RCW 28B.15.734 and 1985 c 370 s 71 are each amended to read as follows:

The ((~~higher education coordinating board~~)) governing boards of the state universities, the regional universities, and The Evergreen State College, and the state board for community and technical colleges may enter into an agreement with appropriate officials or agencies in Oregon to implement the provisions of RCW 28B.15.730 through 28B.15.734.

Sec. 706. RCW 28B.15.750 and 1993 sp.s. c 18 s 29 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College and the state board for community and technical colleges may waive all or a portion of the nonresident tuition fees differential for residents of Idaho, upon completion of and to the extent permitted by an agreement between the governing boards of the individual institutions of higher education ((~~coordinating board~~)) or the state board for community and technical colleges and appropriate officials and agencies in Idaho granting similar waivers for residents of the state of Washington.

Sec. 707. RCW 28B.15.756 and 1993 sp.s. c 18 s 30 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College and the state board for community and technical colleges may waive all or a portion of the nonresident tuition fees differential for residents of the Canadian province of British Columbia, upon completion of and to the extent permitted by an agreement between the governing boards of the individual institutions of higher education ((~~coordinating board~~)) or the state board for community and technical colleges and appropriate officials and agencies in the Canadian province of British Columbia providing for enrollment opportunities for residents of the state of Washington without payment of tuition or fees in excess of those charged to residents of British Columbia.

Sec. 708. RCW 43.330.280 and 2009 c 565 s 14 and 2009 c 72 s 2 are each reenacted and amended to read as follows:

(1) The Washington state economic development commission shall, with the advice of an innovation partnership advisory group selected by the commission:

(a) Provide information and advice to the department of commerce to assist in the implementation of the innovation partnership zone program, including criteria to be used in the selection of grant applicants for funding;

(b) Document clusters of companies throughout the state that have comparative competitive advantage or the potential for comparative competitive advantage, using the process and criteria for identifying strategic clusters developed by the working group specified in subsection (2) of this section;

(c) Conduct an innovation opportunity analysis to identify (i) the strongest current intellectual assets and research teams in the state focused on emerging technologies and their commercialization, and (ii) faculty and researchers that could increase their focus on commercialization of technology if provided the appropriate technical assistance and resources;

(d) Based on its findings and analysis, and in conjunction with the ((~~higher education coordinating board and~~)) research institutions:

(i) Develop a plan to build on existing, and develop new, intellectual assets and innovation research teams in the state in research areas where there is a high potential to commercialize technologies. The commission shall present the plan to the governor and legislature by December 31, 2009. The ((~~higher education coordinating board~~)) publicly funded research institutions in the state shall be responsible for implementing the plan ((~~in conjunction with the publicly funded research institutions in the state~~)). The plan shall address the following elements and such other elements as the commission deems important:

(A) Specific mechanisms to support, enhance, or develop innovation research teams and strengthen their research and commercialization capacity in areas identified as useful to strategic clusters and innovative firms in the state;

(B) Identification of the funding necessary for laboratory infrastructure needed to house innovation research teams;

(C) Specification of the most promising research areas meriting enhanced resources and recruitment of significant entrepreneurial researchers to join or lead innovation research teams;

(D) The most productive approaches to take in the recruitment, in the identified promising research areas, of a minimum of ten significant entrepreneurial researchers over the next ten years to join or lead innovation research teams;

(E) Steps to take in solicitation of private sector support for the recruitment of entrepreneurial researchers and the commercialization activity of innovation research teams; and

(F) Mechanisms for ensuring the location of innovation research teams in innovation partnership zones;

(ii) Provide direction for the development of comprehensive entrepreneurial assistance programs at research institutions. The programs may involve multidisciplinary students, faculty, entrepreneurial researchers, entrepreneurs, and investors in building business models and evolving business plans around innovative ideas. The programs may provide technical assistance and the support of an entrepreneur-in-residence to innovation research teams and offer entrepreneurial training to faculty, researchers, undergraduates, and graduate students. Curriculum leading to a certificate in entrepreneurship may also be offered;

(e) Develop performance measures to be used in evaluating the performance of innovation research teams, the implementation of the plan and programs under (d)(i) and (ii) of this subsection, and the performance of innovation partnership zone grant recipients, including but not limited to private investment measures, business initiation measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation. The performance measures developed shall be consistent with the economic development commission's comprehensive plan for economic development and its standards and metrics for program evaluation. The commission shall report to the legislature and the governor by June 30, 2009, on the measures developed; and

(f) Using the performance measures developed, perform a biennial assessment and report, the first of which shall be due December 31, 2012, on:

(i) Commercialization of technologies developed at state universities, found at other research institutions in the state, and facilitated with public assistance at existing companies;

(ii) Outcomes of the funding of innovation research teams and recruitment of significant entrepreneurial researchers;

(iii) Comparison with other states of Washington's outcomes from the innovation research teams and efforts to recruit significant entrepreneurial researchers; and

(iv) Outcomes of the grants for innovation partnership zones.

The report shall include recommendations for modifications of chapter 227, Laws of 2007 and of state commercialization efforts that would enhance the state's economic competitiveness.

(2) The economic development commission and the workforce training and education coordinating board shall jointly convene a working group to:

(a) Specify the process and criteria for identification of substate geographic concentrations of firms or employment in an industry and the industry's customers, suppliers, supporting businesses, and institutions, which process will include the use of labor market information from the employment security department and local labor markets; and

(b) Establish criteria for identifying strategic clusters which are important to economic prosperity in the state, considering cluster size, growth rate, and wage levels among other factors.

PART VIII
DELETED REFERENCES

Sec. 801. RCW 28A.600.290 and 2009 c 450 s 3 are each amended to read as follows:

(1) The superintendent of public instruction, the state board for community and technical colleges, ((~~the higher education coordinating board,~~)) and the public baccalaureate institutions shall jointly develop and each adopt rules governing the college in the high school program. The association of Washington school principals shall be consulted during the rules development. The rules shall be written to encourage the maximum use of the program and may not narrow or limit the enrollment options.

(2) College in the high school programs shall each be governed by a local contract between the district and the institution of higher education, in compliance with the guidelines adopted by the superintendent of public instruction, the state board for community and technical colleges, and the public baccalaureate institutions.

(3) The college in the high school program must include the provisions in this subsection.

(a) The high school and institution of higher education together shall define the criteria for student eligibility. The institution of higher education may charge tuition fees to participating students.

(b) School districts shall report no student for more than one full-time equivalent including college in the high school courses.

(c) The funds received by the institution of higher education may not be deemed tuition or operating fees and may be retained by the institution of higher education.

(d) Enrollment information on persons registered under this section must be maintained by the institution of higher education separately from other enrollment information and may not be included in official enrollment reports, nor may such persons be considered in any enrollment statistics that would affect higher education budgetary determinations.

(e) A school district must grant high school credit to a student enrolled in a program course if the student successfully completes the course. If no comparable course is offered by the school district, the school district superintendent shall determine how many credits to award for the course. The determination shall be made in writing before the student enrolls in the course. The credits shall be applied toward graduation requirements and subject area requirements. Evidence of successful completion of each program course shall be included in the student's secondary school records and transcript.

(f) An institution of higher education must grant college credit to a student enrolled in a program course if the student successfully completes the course. The college credit shall be applied toward general education requirements or major requirements. If no comparable course is offered by the college, the institution of higher education at which the teacher of the program course is employed shall determine how many credits to award for the course and whether the course fulfills general education or major requirements. Evidence of successful completion of each program course must be included in the student's college transcript.

(g) Eleventh and twelfth grade students or students who have not yet received a high school diploma or its equivalent and are eligible to be in the eleventh or twelfth grades may participate in the college in the high school program.

(h) Participating school districts must provide general information about the college in the high school program to all students in grades ten, eleven, and twelve and to the parents and guardians of those students.

(i) Full-time and part-time faculty at institutions of higher education, including adjunct faculty, are eligible to teach program courses.

(4) The definitions in this subsection apply throughout this section.

(a) "Institution of higher education" has the meaning in RCW 28B.10.016 and also includes a public tribal college located in Washington and accredited by the Northwest commission on colleges and universities or another accrediting association recognized by the United States department of education.

(b) "Program course" means a college course offered in a high school under the college in the high school program.

Sec. 802. RCW 28A.700.020 and 2008 c 170 s 102 are each amended to read as follows:

(1) The office of the superintendent of public instruction, in consultation with the workforce training and education coordinating board, the Washington state apprenticeship and training council, and the state board for community and technical colleges, shall develop a list of statewide high-demand programs for secondary career and technical education. The list shall be developed using the high-demand list maintained by workforce development councils in consultation

with the employment security department, and the high employer demand programs of study identified by the workforce training and education coordinating board((~~, and the high employer demand programs of study identified by the higher education coordinating board~~)). Local school districts may recommend additional high-demand programs in consultation with local career and technical education advisory committees by submitting evidence of local high demand.

(2) As used in this section and in RCW 28A.700.040, 28A.700.050, and 28A.700.060, and section 307 of this act:

(a) "High-demand program" means a career and technical education program that prepares students for either a high employer demand program of study or a high-demand occupation, or both.

(b) "High employer demand program of study" means an apprenticeship or an undergraduate or graduate certificate or degree program in which the number of students per year prepared for employment from in-state programs is substantially fewer than the number of projected job openings per year in that field, either statewide or in a substate region.

(c) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities.

Sec. 803. RCW 28A.700.060 and 2008 c 170 s 107 are each amended to read as follows:

(1) The office of the superintendent of public instruction, the workforce training and education coordinating board, the state board for community and technical colleges, ((~~the higher education coordinating board,~~)) and the council of presidents shall work with local school districts, workforce education programs in colleges, tech prep consortia, and four-year institutions of higher education to develop model career and technical education programs of study as described by this section.

(2) Career and technical education programs of study:

(a) Incorporate secondary and postsecondary education elements;

(b) Include coherent and rigorous academic content aligned with state learning standards and relevant career and technical content in a coordinated, nonduplicative progression of courses that are aligned with postsecondary education in a related field;

(c) Include opportunities for students to earn dual high school and college credit; and

(d) Lead to an industry-recognized credential or certificate at the postsecondary level, or an associate or baccalaureate degree.

(3) During the 2008-09 school year, model career and technical education programs of study shall be developed for the following high-demand programs: Construction, health care, and information technology. Each school year thereafter, the office of the superintendent of public instruction, the state board for community and technical colleges, ((~~the higher education coordinating board,~~)) and the workforce training and education coordinating board shall select additional programs of study to develop, with a priority on high-demand programs as identified under RCW 28A.700.020.

Sec. 804. RCW 28B.20.130 and 2010 c 51 s 1 are each amended to read as follows:

General powers and duties of the board of regents are as follows:

(1) To have full control of the university and its property of various kinds, except as otherwise provided by law.

(2) To employ the president of the university, his or her assistants, members of the faculty, and employees of the institution, who except as otherwise provided by law, shall hold their positions during the pleasure of said board of regents.

(3) Establish entrance requirements for students seeking admission to the university which meet or exceed the standards specified under ((~~RCW 28B.76.290(2)~~)) section 104 of this act. Completion of examinations satisfactory to the university may be a prerequisite for entrance by any applicant at the university's discretion. Evidence of completion of public high schools and other educational institutions whose courses of study meet the approval of the university may be acceptable for entrance.

(4) Establish such colleges, schools, or departments necessary to carry out the purpose of the university and not otherwise proscribed by law.

(5) With the assistance of the faculty of the university, prescribe the course of study in the various colleges, schools, and departments of the institution and publish the necessary catalogues thereof.

(6) Grant to students such certificates or degrees as recommended for such students by the faculty. The board, upon recommendation of the faculty, may also confer honorary degrees upon persons other than graduates of this university in recognition of their learning or devotion to literature, art, or science: PROVIDED, That no degree shall ever be conferred in consideration of the payment of money or the giving of property of whatsoever kind.

(7) Accept such gifts, grants, conveyances, bequests, and devises, whether real or personal property, or both, in trust or otherwise, for the use or benefit of the university, its colleges, schools, departments, or agencies; and sell, lease or exchange, invest or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms of said gifts, grants, conveyances, bequests, and devises. The board shall adopt proper rules to govern and protect the receipt and expenditure of the proceeds of all fees, and the proceeds, rents, profits, and income of all gifts, grants, conveyances, bequests, and devises above-mentioned.

(8) Except as otherwise provided by law, to enter into such contracts as the regents deem essential to university purposes.

(9) To submit upon request such reports as will be helpful to the governor and to the legislature in providing for the institution.

(10) ((~~Subject to the approval of the higher education coordinating board pursuant to RCW 28B.76.230,~~)) To offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities in accordance with RCW 28B.76.230 (as recodified by this act).

(11) To confer honorary degrees upon persons who request an honorary degree if they were students at the university in 1942 and did not graduate because they were ordered into an internment camp. The honorary degree may also be requested by a representative of deceased persons who meet these requirements. For the purposes of this subsection, "internment camp" means a

relocation center to which persons were ordered evacuated by Presidential Executive Order 9066, signed February 19, 1942.

Sec. 805. RCW 28B.30.150 and 2010 c 51 s 2 are each amended to read as follows:

The regents of Washington State University, in addition to other duties prescribed by law, shall:

(1) Have full control of the university and its property of various kinds, except as otherwise provided by law.

(2) Employ the president of the university, his or her assistants, members of the faculty, and employees of the university, who, except as otherwise provided by law, shall hold their positions during the pleasure of said board of regents.

(3) Establish entrance requirements for students seeking admission to the university which meet or exceed the standards specified under ((~~RCW 28B.76.290(2)~~)) section 104 of this act. Completion of examinations satisfactory to the university may be a prerequisite for entrance by any applicant, at the university's discretion. Evidence of completion of public high schools and other educational institutions whose courses of study meet the approval of the university may be acceptable for entrance.

(4) Establish such colleges, schools, or departments necessary to carry out the purpose of the university and not otherwise proscribed by law.

(5) ((~~Subject to the approval of the higher education coordinating board pursuant to RCW 28B.76.230,~~)) Offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities in accordance with RCW 28B.76.230 (as recodified by this act).

(6) With the assistance of the faculty of the university, prescribe the courses of instruction in the various colleges, schools, and departments of the institution and publish the necessary catalogues thereof.

(7) Collect such information as the board deems desirable as to the schemes of technical instruction adopted in other parts of the United States and foreign countries.

(8) Provide for holding agricultural institutes including farm marketing forums.

(9) Provide that instruction given in the university, as far as practicable, be conveyed by means of laboratory work and provide in connection with the university one or more physical, chemical, and biological laboratories, and suitably furnish and equip the same.

(10) Provide training in military tactics for those students electing to participate therein.

(11) Establish a department of elementary science and in connection therewith provide instruction in elementary mathematics, including elementary trigonometry, elementary mechanics, elementary and mechanical drawing, and land surveying.

(12) Establish a department of agriculture and in connection therewith provide instruction in physics with special application of its principles to agriculture, chemistry with special application of its principles to agriculture, morphology and physiology of plants with special reference to common grown crops and fungus enemies, morphology and physiology of the lower forms of animal life, with special reference to insect pests, morphology and physiology of

the higher forms of animal life and in particular of the horse, cow, sheep, and swine, agriculture with special reference to the breeding and feeding of livestock and the best mode of cultivation of farm produce, and mining and metallurgy, appointing demonstrators in each of these subjects to superintend the equipment of a laboratory and to give practical instruction therein.

(13) Establish agricultural experiment stations in connection with the department of agriculture, including at least one in the western portion of the state, and appoint the officers and prescribe regulations for their management.

(14) Grant to students such certificates or degrees, as recommended for such students by the faculty.

(15) Confer honorary degrees upon persons other than graduates of the university in recognition of their learning or devotion to literature, art, or science when recommended thereto by the faculty: PROVIDED, That no degree shall ever be conferred in consideration of the payment of money or the giving of property of whatsoever kind.

(16) Adopt plans and specifications for university buildings and facilities or improvements thereto and employ skilled architects and engineers to prepare such plans and specifications and supervise the construction of buildings or facilities which the board is authorized to erect, and fix the compensation for such services. The board shall enter into contracts with one or more contractors for such suitable buildings, facilities, or improvements as the available funds will warrant, upon the most advantageous terms offered at a public competitive letting, pursuant to public notice under rules established by the board. The board shall require of all persons with whom they contract for construction and improvements a good and sufficient bond for the faithful performance of the work and full protection against all liens.

(17) Except as otherwise provided by law, direct the disposition of all money appropriated to or belonging to the state university.

(18) Receive and expend the money appropriated under the act of congress approved May 8, 1914, entitled "An Act to provide for cooperative agricultural extension work between the agricultural colleges in the several States receiving the benefits of the Act of Congress approved July 2, 1862, and Acts supplemental thereto and the United States Department of Agriculture" and organize and conduct agricultural extension work in connection with the state university in accordance with the terms and conditions expressed in the acts of congress.

(19) Except as otherwise provided by law, to enter into such contracts as the regents deem essential to university purposes.

(20) Acquire by lease, gift, or otherwise, lands necessary to further the work of the university or for experimental or demonstrational purposes.

(21) Establish and maintain at least one agricultural experiment station in an irrigation district to conduct investigational work upon the principles and practices of irrigational agriculture including the utilization of water and its relation to soil types, crops, climatic conditions, ditch and drain construction, fertility investigations, plant disease, insect pests, marketing, farm management, utilization of fruit by-products, and general development of agriculture under irrigation conditions.

(22) Supervise and control the agricultural experiment station at Puyallup.

(23) Establish and maintain at Wenatchee an agricultural experiment substation for the purpose of conducting investigational work upon the principles and practices of orchard culture, spraying, fertilization, pollenization, new fruit varieties, fruit diseases and pests, by-products, marketing, management, and general horticultural problems.

(24) Accept such gifts, grants, conveyances, devises, and bequests, whether real or personal property, in trust or otherwise, for the use or benefit of the university, its colleges, schools, or departments; and sell, lease or exchange, invest or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms of said gifts, grants, conveyances, bequests, and devises; and adopt proper rules to govern and protect the receipt and expenditure of the proceeds of all fees, and the proceeds, rents, profits, and income of all gifts, grants, conveyances, bequests, and devises.

(25) Construct when the board so determines a new foundry and a mining, physical, technological building, and fabrication shop at the university, or add to the present foundry and other buildings, in order that both instruction and research be expanded to include permanent molding and die casting with a section for new fabricating techniques, especially for light metals, including magnesium and aluminum; purchase equipment for the shops and laboratories in mechanical, electrical, and civil engineering; establish a pilot plant for the extraction of alumina from native clays and other possible light metal research; purchase equipment for a research laboratory for technological research generally; and purchase equipment for research in electronics, instrumentation, energy sources, plastics, food technology, mechanics of materials, hydraulics, and similar fields.

(26) Make and transmit to the governor and members of the legislature upon request such reports as will be helpful in providing for the institution.

(27) Confer honorary degrees upon persons who request an honorary degree if they were students at the university in 1942 and did not graduate because they were ordered into an internment camp. The honorary degree may also be requested by a representative of deceased persons who meet these requirements. For the purposes of this subsection, "internment camp" means a relocation center to which persons were ordered evacuated by Presidential Executive Order 9066, signed February 19, 1942.

Sec. 806. RCW 28B.20.308 and 2009 c 466 s 2 are each amended to read as follows:

(1) A global Asia institute is created within the Henry M. Jackson School of International Studies. The mission of the institute is to promote the understanding of Asia and its interactions with Washington state and the world. The institute shall host visiting scholars and policymakers, sponsor programs and learning initiatives, engage in collaborative research projects, and facilitate broader understanding and cooperation between the state of Washington and Asia through general public programs and targeted collaborations with specific communities in the state.

(2) Within existing resources, a global Asia institute advisory board is established. The director of the Henry M. Jackson School of International Studies shall appoint members of the advisory board and determine the advisory board's roles and responsibilities. The board shall include members representing academia, business, and government.

((~~(3) The higher education coordinating board may solicit, accept, receive, and administer federal funds or private funds, in trust or otherwise, and contract with foundations or with for-profit or nonprofit organizations to support the purposes of this section.~~))

Sec. 807. RCW 28B.20.478 and 2009 c 465 s 1 are each amended to read as follows:

((~~(1)~~)) A University of Washington center for human rights is created. The mission of the center is to expand opportunities for Washington residents to receive a world-class education in human rights, generate research data and expert knowledge to enhance public and private policymaking, and become an academic center for human rights teaching and research in the nation. The center shall align with the founding principles and philosophies of the United States of America and engage faculty, staff, and students in service to enhance the promise of life and liberty as outlined in the Preamble of the United States Constitution. Key substantive issues for the center include: The rights of all persons to security against violence; the rights of immigrants, native Americans, and ethnic or religious minorities; human rights and the environment; health as a human right; human rights and trade; the human rights of working people; and women's rights as human rights. State funds may not be used to support the center for human rights created in this section.

((~~(2) The higher education coordinating board and the University of Washington may solicit, accept, receive, and administer federal funds or private funds, in trust or otherwise, and contract with foundations or with for-profit or nonprofit organizations to support the purposes of this section.~~))

Sec. 808. RCW 28B.30.530 and 2010 c 165 s 3 are each amended to read as follows:

(1) The board of regents of Washington State University shall establish the Washington State University small business development center.

(2) The center shall provide management and technical assistance including but not limited to training, counseling, and research services to small businesses throughout the state. The center shall work with the department of commerce, the state board for community and technical colleges, ((~~the higher education coordinating board,~~)) the workforce training and education coordinating board, the employment security department, the Washington state economic development commission, associate development organizations, and workforce development councils to:

(a) Integrate small business development centers with other state and local economic development and workforce development programs;

(b) Target the centers' services to small businesses;

(c) Tailor outreach and services at each center to the needs and demographics of entrepreneurs and small businesses located within the service area;

(d) Establish and expand small business development center satellite offices when financially feasible; and

(e) Coordinate delivery of services to avoid duplication.

(3) The administrator of the center may contract with other public or private entities for the provision of specialized services.

(4) The small business development center may accept and disburse federal grants or federal matching funds or other funds or donations from any source when made, granted, or donated to carry out the center's purposes. When drawing on funds from the business assistance account created in RCW 28B.30.531, the center must first use the funds to make increased management and technical assistance available to existing small businesses and start-up businesses at satellite offices. The funds may also be used to develop and expand assistance programs such as small business planning workshops and small business counseling.

(5) By December 1, 2010, the center shall provide a written progress report and a final report to the appropriate committees of the legislature with respect to the requirements in subsection (2) of this section and the amount and use of funding received through the business assistance account. The reports must also include data on the number, location, staffing, and budget levels of satellite offices; affiliations with community colleges, associate development organizations or other local organizations; the number, size, and type of small businesses assisted; and the types of services provided. The reports must also include information on the outcomes achieved, such as jobs created or retained, private capital invested, and return on the investment of state and federal dollars.

(6)(a) Subject to the availability of amounts appropriated for this specific purpose, by December 1, 2010, the center, in conjunction with the department of commerce, must prepare and present to the governor and appropriate legislative committees a specific, actionable plan to increase access to capital and technical assistance to small businesses and entrepreneurs beginning with the 2011-2013 biennium. In developing the plan, the center and the department may consult with the Washington state microenterprise association, and with other government, nonprofit, and private organizations as necessary. The plan must identify:

(i) Existing sources of capital and technical assistance for small businesses and entrepreneurs;

(ii) Critical gaps and barriers to availability of capital and delivery of technical assistance to small businesses and entrepreneurs;

(iii) Workable solutions to filling the gaps and removing barriers identified in (a)(ii) of this subsection; and

(iv) The financial resources and statutory changes necessary to put the plan into effect beginning with the 2011-2013 biennium.

(b) With respect to increasing access to capital, the plan must identify specific, feasible sources of capital and practical mechanisms for expanding access to it.

(c) The center and the department must include, within the analysis and recommendations in (a) of this subsection, any specific gaps, barriers, and solutions related to rural and low-income communities and small manufacturers interested in exporting.

Sec. 809. RCW 28B.35.120 and 2011 c 336 s 728 are each amended to read as follows:

In addition to any other powers and duties prescribed by law, each board of trustees of the respective regional universities:

(1) Shall have full control of the regional university and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the regional university, his or her assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the regional university, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the Washington professional educator standards board shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) May establish such divisions, schools, or departments necessary to carry out the purposes of the regional university and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the regional university.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the regional university.

(8) May establish, lease, operate, equip, and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, ((~~to~~)) shall enter into such contracts as the trustees deem essential to regional university purposes.

(10) May receive such gifts, grants, conveyances, devises, and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the regional university programs; sell, lease, or exchange, invest or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits, and income thereof.

(11) ((~~Subject to the approval of the higher education coordinating board pursuant to~~)) In accordance with RCW 28B.76.230 (as recodified by this act), may offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the regional university.

Sec. 810. RCW 28B.35.202 and 2011 c 136 s 1 are each amended to read as follows:

The board of trustees of Eastern Washington University may offer educational specialist degrees ((~~subject to review and approval by the higher education coordinating board~~)).

Sec. 811. RCW 28B.35.205 and 2010 c 51 s 3 are each amended to read as follows:

(1) In addition to all other powers and duties given to them by law, Central Washington University, Eastern Washington University, and Western

Washington University are hereby authorized to grant any degree through the master's degree to any student who has completed a program of study and/or research in those areas which are determined by the faculty and board of trustees of the college to be appropriate for the granting of such degree((~~: PROVIDED, That before any degree is authorized under this section it shall be subject to the review and approval of the higher education coordinating board~~)).

(2) The board of trustees, upon recommendation of the faculty, may also confer honorary bachelor's, master's, or doctorate level degrees upon persons in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property.

(3) The board of trustees may also confer honorary degrees upon persons who request an honorary degree if they were students at the university in 1942 and did not graduate because they were ordered into an internment camp. The honorary degree may also be requested by a representative of deceased persons who meet these requirements. For the purposes of this subsection, "internment camp" means a relocation center to which persons were ordered evacuated by Presidential Executive Order 9066, signed February 19, 1942.

Sec. 812. RCW 28B.35.215 and 2001 c 252 s 1 are each amended to read as follows:

The board of trustees of Eastern Washington University may offer applied, but not research, doctorate level degrees in physical therapy subject to review ((~~and approval by the higher education coordinating board~~)).

Sec. 813. RCW 28B.40.120 and 2011 c 336 s 734 are each amended to read as follows:

In addition to any other powers and duties prescribed by law, the board of trustees of The Evergreen State College:

(1) Shall have full control of the state college and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the state college, his or her assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the state college, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the Washington professional educator standards board shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) <u>May e</u>stablish such divisions, schools, or departments necessary to carry out the purposes of the college and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the college.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the college.

(8) May establish, lease, operate, equip, and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, ((~~to~~)) shall enter into such contracts as the trustees deem essential to college purposes.

(10) May receive such gifts, grants, conveyances, devises, and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the college programs; sell, lease, or exchange, invest or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits, and income thereof.

(11) ((~~Subject to the approval of the higher education coordinating board pursuant to~~)) In accordance with RCW 28B.76.230 (as recodified by this act), may offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the college.

Sec. 814. RCW 28B.40.206 and 1991 c 58 s 3 are each amended to read as follows:

In addition to all other powers and duties given to them by law, the board of trustees of The Evergreen State College is hereby authorized to grant any degree through the master's degree to any student who has completed a program of study and/or research in those areas which are determined by the faculty and board of trustees of the college to be appropriate for the granting of such degree((~~: PROVIDED, That any degree authorized under this section shall be subject to the review and approval of the higher education coordinating board~~)).

The board of trustees, upon recommendation of the faculty, may also confer honorary bachelor's or master's degrees upon persons other than graduates of the institution, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property.

Sec. 815. RCW 28B.45.060 and 1989 1st ex.s. c 7 s 7 are each amended to read as follows:

Central Washington University is responsible for providing upper-division and graduate level higher education programs to the citizens of the Yakima area((~~, under rules or guidelines adopted by the higher education coordinating board~~)).

Sec. 816. RCW 28B.50.810 and 2010 c 245 s 3 are each amended to read as follows:

(1) The college board may select community or technical colleges to develop and offer programs of study leading to applied baccalaureate degrees. Colleges may submit applications to the college board. The college board ((~~and the higher education coordinating board~~)) shall review the applications and select the colleges using objective criteria, including, but not limited to:

(a) The college demonstrates the capacity to make a long-term commitment of resources to build and sustain a high quality program;

(b) The college has or can readily engage faculty appropriately qualified to develop and deliver a high quality curriculum at the baccalaureate level;

(c) The college can demonstrate demand for the proposed program from a sufficient number of students within its service area to make the program cost-effective and feasible to operate;

(d) The college can demonstrate that employers demand the level of technical training proposed within the program, making it cost-effective for students to seek the degree; and

(e) The proposed program fills a gap in options available for students because it is not offered by a public four-year institution of higher education in the college's geographic area.

(2) A college selected under this section may develop the curriculum for and design and deliver courses leading to an applied baccalaureate degree. However, degree programs developed under this section are subject to approval by the college board under RCW 28B.50.090 ((~~and by the higher education coordinating board under RCW 28B.76.230 before a college may enroll students in upper division courses~~)).

Sec. 817. RCW 43.09.440 and 2005 c 385 s 5 are each amended to read as follows:

(1) The board and the state auditor shall collaborate with the joint legislative audit and review committee regarding performance audits of state government.

(a) The board shall establish criteria for performance audits consistent with the criteria and standards followed by the joint legislative audit and review committee. This criteria shall include, at a minimum, the auditing standards of the United States government accountability office, as well as legislative mandates and performance objectives established by state agencies and the legislature. Mandates include, but are not limited to, agency strategies, timelines, program objectives, and mission and goals as required in RCW 43.88.090.

(b) Using the criteria developed in (a) of this subsection, the state auditor shall contract for a statewide performance review to be completed as expeditiously as possible as a preliminary to a draft work plan for conducting performance audits. The board and the state auditor shall develop a schedule and common methodology for conducting these reviews. The purpose of these performance reviews is to identify those agencies, programs, functions, or activities most likely to benefit from performance audits and to identify likely areas warranting early review, taking into account prior performance audits, if any, and prior fiscal audits.

(c) The board and the state auditor shall develop the draft work plan for performance audits based on input from citizens, state employees, including front-line employees, state managers, chairs and ranking members of appropriate legislative committees, the joint legislative audit and review committee, public officials, and others. The draft work plan may include a list of agencies, programs, or systems to be audited on a timeline decided by the board and the state auditor based on a number of factors including risk, importance, and citizen concerns. When putting together the draft work plan, there should be

consideration of all audits and reports already required. On average, audits shall be designed to be completed as expeditiously as possible.

(d) Before adopting the final work plan, the board shall consult with the legislative auditor and other appropriate oversight and audit entities to coordinate work plans and avoid duplication of effort in their planned performance audits of state government agencies. The board shall defer to the joint legislative audit and review committee work plan if a similar audit is included on both work plans for auditing.

(e) The state auditor shall contract out for performance audits. In conducting the audits, agency front-line employees and internal auditors should be involved.

(f) All audits must include consideration of reports prepared by other government oversight entities.

(g) The audits may include:

(i) Identification of programs and services that can be eliminated, reduced, consolidated, or enhanced;

(ii) Identification of funding sources to the state agency, to programs, and to services that can be eliminated, reduced, consolidated, or enhanced;

(iii) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;

(iv) Analysis and recommendations for pooling information technology systems used within the state agency, and evaluation of information processing and telecommunications policy, organization, and management;

(v) Analysis of the roles and functions of the state 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;

(vi) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the agency carry out reasonably and properly those functions vested in the agency by statute;

(vii) Verification of the reliability and validity of agency performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090;

(viii) Identification of potential cost savings in the state agency, its programs, and its services;

(ix) Identification and recognition of best practices;

(x) Evaluation of planning, budgeting, and program evaluation policies and practices;

(xi) Evaluation of personnel systems operation and management;

(xii) Evaluation of state purchasing operations and management policies and practices; and

(xiii) Evaluation of organizational structure and staffing levels, particularly in terms of the ratio of managers and supervisors to nonmanagement personnel.

(h) The state auditor must solicit comments on preliminary performance audit reports from the audited state agency, the office of the governor, the office of financial management, the board, the chairs and ranking members of appropriate legislative committees, and the joint legislative audit and review committee for comment. 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. All comments shall be incorporated into the final performance audit report. The final performance audit report shall include the objectives, scope, and methodology; the audit results, including findings and recommendations; conclusions; and identification of best practices.

(i) The board and the state auditor shall jointly release final performance audit reports to the governor, the citizens of Washington, the joint legislative audit and review committee, and the appropriate standing legislative committees. Final performance audit reports shall be posted on the internet.

(j) For institutions of higher education, performance audits shall not duplicate, and where applicable, shall make maximum use of existing audit records, accreditation reviews, and performance measures required by the office of financial management((~~, the higher education coordinating board,~~)) and nationally or regionally recognized accreditation organizations including accreditation of hospitals licensed under chapter 70.41 RCW and ambulatory care facilities.

(2) The citizen board created under RCW 44.75.030 shall be responsible for performance audits for transportation related agencies as defined under RCW 44.75.020.

Sec. 818. RCW 43.43.934 and 2010 1st sp.s. c 7 s 45 are each amended to read as follows:

The director of fire protection shall:

(1)(a)(i) With the state board for community and technical colleges, provide academic, vocational, and field training programs for the fire service; and (ii) with the ((~~higher education coordinating board and the~~)) state colleges and universities, provide instructional programs requiring advanced training, especially in command and management skills;

(b) Cooperate with the common schools, technical and community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule;

(c) Develop and adopt a master plan for constructing, equipping, maintaining, and operating necessary fire service training and education facilities subject to the provisions of chapter 43.19 RCW;

(d) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary for fire service training and education facilities in a manner provided by law; and

(e) Develop and adopt a plan with a goal of providing firefighter one and wildland training to all firefighters in the state. Wildland training reimbursement will be provided if a fire protection district or a city fire department has and is fulfilling their interior attack policy or if they do not have an interior attack policy. The plan will include a reimbursement for fire protection districts and city fire departments of not less than three dollars for every hour of firefighter one or wildland training. The Washington state patrol shall not provide

reimbursement for more than two hundred hours of firefighter one or wildland training for each firefighter trained.

(2)(a) Promote mutual aid and disaster planning for fire services in this state;

(b) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention; and

(c) Implement any legislation enacted by the legislature to meet the requirements of any acts of congress that apply to this section.

(3) In carrying out its statutory duties, the office of the state fire marshal shall give particular consideration to the appropriate roles to be played by the state and by local jurisdictions with fire protection responsibilities. Any determinations on the division of responsibility shall be made in consultation with local fire officials and their representatives.

To the extent possible, the office of the state fire marshal shall encourage development of regional units along compatible geographic, population, economic, and fire risk dimensions. Such regional units may serve to: (a) Reinforce coordination among state and local activities in fire service training, reporting, inspections, and investigations; (b) identify areas of special need, particularly in smaller jurisdictions with inadequate resources; (c) assist the state in its oversight responsibilities; (d) identify funding needs and options at both the state and local levels; and (e) provide models for building local capacity in fire protection programs.

Sec. 819. RCW 43.43.938 and 2010 1st sp.s. c 7 s 46 are each amended to read as follows:

(1) Wherever the term state fire marshal appears in the Revised Code of Washington or the Washington Administrative Code it shall mean the director of fire protection.

(2) The chief of the Washington state patrol shall appoint an officer who shall be known as the director of fire protection.

(3) The director of fire protection may designate one or more deputies and may delegate to those deputies his or her duties and authorities as deemed appropriate.

(4) The director of fire protection shall prepare a biennial budget pertaining to fire protection services. Such biennial budget shall be submitted as part of the Washington state patrol's budget request.

(5) The director of fire protection, shall implement and administer, within constraints established by budgeted resources, all duties of the chief of the Washington state patrol that are to be carried out through the director of fire protection, and all of the duties of the director of fire protection. Such administration shall include negotiation of agreements with the state board for community and technical colleges((~~, the higher education coordinating board,~~)) and the state colleges and universities as provided in RCW 43.43.934. Programs covered by such agreements shall include, but not be limited to, planning curricula, developing and delivering instructional programs and materials, and using existing instructional personnel and facilities. Where appropriate, such contracts shall also include planning and conducting instructional programs at the state fire service training center.

Sec. 820. RCW 43.60A.151 and 2007 c 451 s 3 are each amended to read as follows:

(1) The department shall assist veterans enrolled in the veterans conservation corps with obtaining employment in conservation programs and projects that restore Washington's natural habitat, maintain and steward local, state, and federal forest lands and other outdoor lands, maintain and improve urban and suburban storm water management facilities and other water management facilities, and other environmental maintenance, stewardship, and restoration projects. The department shall consult with the workforce training and education coordinating board, the state board for community and technical colleges, ((~~the higher education coordinating board,~~)) the employment security department, and other state agencies administering conservation corps programs, to incorporate training, education, and certification in environmental restoration and management fields into the program. The department may enter into agreements with community colleges, private schools, state or local agencies, or other entities to provide training and educational courses as part of the enrollee benefits from the program.

(2) The department may receive gifts, grants, federal funds, or other moneys from public or private sources, for the use and benefit of the veterans conservation corps program. The funds shall be deposited to the veterans conservation corps account created in RCW 43.60A.153.

(3) The department shall submit a report to the appropriate committees of the legislature by December 1, 2008, on the status of the veterans conservation corps program, including the number of enrollees employed in projects, training provided, certifications earned, employment placements achieved, program funding provided from all sources, and the results of the pilot project authorized in section 4, chapter 451, Laws of 2007.

Sec. 821. RCW 43.88D.010 and 2010 c 245 s 9 are each amended to read as follows:

(1) By October 1st of each even-numbered year, the office of financial management shall complete an objective analysis and scoring of all capital budget projects proposed by the public four-year institutions of higher education and submit the results of the scoring process to the legislative fiscal committees((~~, the higher education coordinating board,~~)) and the four-year institutions. Each project must be reviewed and scored within one of the following categories, according to the project's principal purpose. Each project may be scored in only one category. The categories are:

(a) Access-related projects to accommodate enrollment growth at main and branch campuses, at existing or new university centers, or through distance learning. Growth projects should provide significant additional student capacity. Proposed projects must demonstrate that they are based on solid enrollment demand projections, more cost-effectively provide enrollment access than alternatives such as university centers and distance learning, and make cost-effective use of existing and proposed new space;

(b) Projects that replace failing permanent buildings. Facilities that cannot be economically renovated are considered replacement projects. New space may be programmed for the same or a different use than the space being replaced and may include additions to improve access and enhance the relationship of program or support space;

(c) Projects that renovate facilities to restore building life and upgrade space to meet current program requirements. Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life. New space may be programmed for the same or a different use than the space being renovated and may include additions to improve access and enhance the relationship of program or support space;

(d) Major stand-alone campus infrastructure projects;

(e) Projects that promote economic growth and innovation through expanded research activity. The acquisition and installation of specialized equipment is authorized under this category; and

(f) Other project categories as determined by the office of financial management in consultation with the legislative fiscal committees.

(2) The office of financial management, in consultation with the legislative fiscal committees, shall establish a scoring system and process for each four-year project category that is based on the framework used in the community and technical college system of prioritization. Staff from the state board for community and technical colleges((~~, the higher education coordinating board,~~)) and the four-year institutions shall provide technical assistance on the development of a scoring system and process.

(3) The office of financial management shall consult with the legislative fiscal committees in the scoring of four-year institution project proposals, and may also solicit participation by independent experts.

(a) For each four-year project category, the scoring system must, at a minimum, include an evaluation of enrollment trends, reasonableness of cost, the ability of the project to enhance specific strategic master plan goals, age and condition of the facility if applicable, and impact on space utilization.

(b) Each four-year project category may include projects at the predesign, design, or construction funding phase.

(c) To the extent possible, the objective analysis and scoring system of all capital budget projects shall occur within the context of any and all performance agreements between the office of financial management and the governing board of a public, four-year institution of higher education that aligns goals, priorities, desired outcomes, flexibility, institutional mission, accountability, and levels of resources.

(4) In evaluating and scoring four-year institution projects, the office of financial management shall take into consideration project schedules that result in realistic, balanced, and predictable expenditure patterns over the ensuing three biennia.

(5) The office of financial management shall distribute common definitions, the scoring system, and other information required for the project proposal and scoring process as part of its biennial budget instructions. The office of financial management, in consultation with the legislative fiscal committees, shall develop common definitions that four-year institutions must use in developing their project proposals and lists under this section.

(6) In developing any scoring system for capital projects proposed by the four-year institutions, the office of financial management:

(a) Shall be provided with all required information by the four-year institutions as deemed necessary by the office of financial management;

(b) May utilize independent services to verify, sample, or evaluate information provided to the office of financial management by the four-year institutions; and

(c) Shall have full access to all data maintained by the ((~~higher education coordinating board and the~~)) joint legislative audit and review committee concerning the condition of higher education facilities.

(7) By August 1st of each even-numbered year each public four-year higher education institution shall prepare and submit prioritized lists of the individual projects proposed by the institution for the ensuing six-year period in each category. The lists must be submitted to the office of financial management and the legislative fiscal committees. The four-year institutions may aggregate minor works project proposals by primary purpose for ranking purposes. Proposed minor works projects must be prioritized within the aggregated proposal, and supporting documentation, including project descriptions and cost estimates, must be provided to the office of financial management and the legislative fiscal committees.

PART IX
MISCELLANEOUS PROVISIONS

Sec. 901. 2011 1st sp.s. c 11 s 244 (uncodified) is amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2012:

(1) RCW 28B.76.010 (Board created) and 1985 c 370 s 1;

(2) RCW 28B.76.030 (Purpose) and 2004 c 275 s 1;

(3) RCW 28B.76.040 (Members—Appointment) and 2002 c 348 s 1, 2002 c 129 s 1, & 1985 c 370 s 10;

(4) RCW 28B.76.050 (Members—Terms) and 2007 c 458 s 101, 2004 c 275 s 3, 2002 c 129 s 2, & 1985 c 370 s 11;

(5) RCW 28B.76.060 (Members—Vacancies) and 1985 c 370 s 12;

(6) RCW 28B.76.070 (Bylaws—Meetings) and 1985 c 370 s 13;

(7) RCW 28B.76.080 (Members—Compensation and travel expenses) and 1985 c 370 s 16, 1984 c 287 s 65, 1975-'76 2nd ex.s. c 34 s 77, & 1969 ex.s. c 277 s 12;

(8) RCW 28B.76.200 (Statewide strategic master plan for higher education—Institution-level strategic plans) and 2007 c 458 s 201, 2004 c 275 s 6, & 2003 c 130 s 2;

(9) RCW 28B.76.260 (Statewide system of course equivalency—Work group) and 2004 c 55 s 3;

(10) ((~~RCW 28B.76.280 (Data collection and research—Privacy protection) and 2010 1st sp.s. c 7 s 58 & 2004 c 275 s 12;~~

~~(11)~~)) RCW 28B.76.330 (Coordination, articulation, and transitions among systems of education—Biennial updates to legislature) and 2004 c 275 s 17 & 1994 c 222 s 3; and

(((~~(12)~~))) (11) RCW 28B.76.530 (Board may develop and administer demonstration projects) and 1989 c 306 s 2.

NEW SECTION. **Sec. 902.** The following acts or parts of acts are each repealed:

(1) RCW 28B.10.682 (Precollege coursework—Adoption of definitions) and 1995 c 310 s 2;

(2) RCW 28B.15.732 (Washington/Oregon reciprocity tuition and fee program—Reimbursement when greater net revenue loss) and 2011 1st sp.s. c 11 s 153, 1985 c 370 s 70, & 1979 c 80 s 2;

(3) RCW 28B.15.752 (Washington/Idaho reciprocity tuition and fee program—Reimbursement when greater net revenue loss) and 2011 1st sp.s. c 11 s 154, 1985 c 370 s 74, & 1983 c 166 s 2;

(4) RCW 28B.15.796 (Effective communication—Task force to improve communication and teaching skills of faculty and teaching assistants) and 1991 c 228 s 4;

(5) RCW 28B.20.280 (Masters and doctorate level degrees in technology authorized—Review by higher education coordinating board) and 1985 c 370 s 82 & 1983 1st ex.s. c 72 s 10;

(6) RCW 28B.30.500 (Masters and doctorate level degrees in technology authorized—Review by higher education coordinating board) and 1985 c 370 s 83 & 1983 1st ex.s. c 72 s 12; and

(7) RCW 43.88D.005 (Findings—Intent) and 2008 c 205 s 1.

NEW SECTION. **Sec. 903.** Sections 1 and 102 through 108 of this act are each added to chapter 28B.77 RCW.

NEW SECTION. **Sec. 904.** RCW 28B.76.110, 28B.76.210, 28B.76.230, 28B.76.235, 28B.76.240, 28B.76.2401, 28B.76.250, 28B.76.270, 28B.76.280, 28B.76.325, 28B.76.510, and 28B.76.695 are each recodified as sections in chapter 28B.77 RCW.

NEW SECTION. **Sec. 905.** RCW 28B.76.310 is recodified as a section in chapter 43.41 RCW.

NEW SECTION. **Sec. 906.** RCW 28B.10.125 is decodified.

NEW SECTION. **Sec. 907.** Sections 570 and 609 of this act expire June 30, 2013.

NEW SECTION. **Sec. 908.** Sections 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904 of this act take effect July 1, 2012.

Passed by the House March 8, 2012.

Passed by the Senate March 8, 2012.

Approved by the Governor March 30, 2012, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2012.

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

"I am returning herewith, without my approval as to Section 570, Engrossed Second Substitute House Bill 2483 entitled:

"AN ACT Relating to higher education coordination."

The Legislature has passed two bills this session amending RCW 28B.117.020. To prevent a conflicting double amendment, I am vetoing Section 570 of Engrossed Second Substitute House Bill 2483. This section would correct a reference to the Higher Education Coordinating Board in RCW

28B.117.020. Substitute House Bill 2254 eliminates the reference and obviates the need for correction.

For this reason I have vetoed Section 570 of Engrossed Second Substitute House Bill 2483.

With the exception of Section 570, Engrossed Second Substitute House Bill 2483 is approved."

CHAPTER 230

[Third Substitute House Bill 2585]

HIGHER EDUCATION—EFFICIENCIES

AN ACT Relating to creating efficiencies for institutions of higher education; amending RCW 43.88.160, 41.06.157, 41.04.240, and 43.88.150; reenacting and amending RCW 28B.10.029 and 28B.15.031; and creating a new section.

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

Sec. 1. RCW 43.88.160 and 2006 c 1 s 6 are each amended to read as follows:

This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) Except as provided in chapter 43.88C RCW, the director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance

between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

Each agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following the standards of internal auditing of the institute of internal auditors;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter the plans, except that for the following agencies no amendment or alteration of the plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized employee years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not

be empowered to fix the number or the classes for the following: Agencies headed by elective officials;

(g) Adopt rules to effectuate provisions contained in (a) through (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than equipment maintenance providers or as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of ((~~general administration~~)) enterprise services but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than twelve months after such payment except that institutions of higher education as defined in RCW 28B.10.016 may make payments in advance for equipment maintenance services to be performed up to sixty months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with ((~~regulations~~)) rules issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance

funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications and performance audits as expressly authorized by the legislature in the omnibus biennial appropriations acts or in the performance audit work plan approved by the joint legislative audit and review committee. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification, may report to the joint legislative audit and review committee or other appropriate committees of the legislature, in a manner prescribed by the joint legislative audit and review committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or in the performance audit work plan. The results of a performance audit conducted by the state auditor that has been requested by the joint legislative audit and review committee must only be transmitted to the joint legislative audit and review committee.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken within six months, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110. The director of financial management shall annually report by December 31st the status of audit resolution to the appropriate committees of the legislature, the state auditor, and the attorney general. The director of financial management shall include in the audit resolution report actions taken as a result

of an audit including, but not limited to, types of personnel actions, costs and types of litigation, and value of recouped goods or services.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

((~~(g)~~)) In addition to the authority given to the state auditor in this subsection (6), the state auditor is authorized to conduct performance audits identified in RCW 43.09.470. Nothing in this subsection (6) shall limit, impede, or restrict the state auditor from conducting performance audits identified in RCW 43.09.470.

(7) The joint legislative audit and review committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in chapter 44.28 RCW as well as performance audits and program evaluations. To this end the joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management.

***Sec. 2. RCW 41.06.157 and 2011 1st sp.s. c 43 s 411 are each amended to read as follows:**

***(1) To promote the most effective use of the state's workforce and improve the effectiveness and efficiency of the delivery of services to the citizens of the state, the director shall adopt and maintain a comprehensive classification plan for all positions in the classified service. The classification plan must:**

***(a) Be simple and streamlined;**

***(b) Support state agencies in responding to changing technologies, economic and social conditions, and the needs of its citizens;**

***(c) Value workplace diversity;**

***(d) Facilitate the reorganization and decentralization of governmental services;**

***(e) Enhance mobility and career advancement opportunities; and**

***(f) Consider rates in other public employment and private employment in the state.**

***(2) An appointing authority and an employee organization representing classified employees of the appointing authority for collective bargaining purposes may jointly request the human resources director to initiate a classification study.**

***(3) For institutions of higher education and related boards, the director may adopt special salary ranges to be competitive with positions of a similar**

nature in the state or the locality in which the institution of higher education or related board is located.

(4) For health care classifications, institutions of higher education may implement higher education health care special pay plans to be competitive with positions of a similar nature in the locality in which the institution of higher education is located. In administering a special pay plan, institutions may authorize compensation changes including but not limited to increases in salary ranges, new top steps in salary ranges, premium pay, and adjustments for community practice. Such special pay plans are not subject to director approval or adoption; however, institutions of higher education shall report annually to the director actions they have taken under the provisions of this section.

(5) The director may undertake salary surveys of positions in other public and private employment to establish market rates. Any salary survey information collected from private employers which identifies a specific employer with salary rates which the employer pays to its employees shall not be subject to public disclosure under chapter 42.56 RCW.

***Sec. 2 was vetoed. See message at end of chapter.**

Sec. 3. RCW 41.04.240 and 1977 ex.s. c 269 s 1 are each amended to read as follows:

(1) Except with regard to institutions of higher education as defined in RCW 28B.10.016, any official of the state or of any political subdivision, municipal corporation, or quasi-municipal corporation authorized to disburse funds in payment of salaries and wages of employees is authorized upon written request of at least twenty-five employees to pay all or part of such salaries or wages to any financial institution for either: (((~~(1)~~))) (a) Credit to the employees' accounts in such financial institution; or (((~~(2)~~))) (b) immediate transfer therefrom to the employees' accounts in any other financial institutions((~~: PROVIDED, That~~)).

(2) In disbursing funds for payment of salaries and wages of employees, institutions of higher education as defined in RCW 28B.10.016 are authorized to require the following payment methods:

(a) For employees who have an account in a financial institution, payment to any financial institution for either: (i) Credit to the employees' accounts in such financial institution; or (ii) immediate transfer therefrom to the employees' accounts in any other financial institutions; and

(b) For employees who do not have an account in a financial institution, payment by alternate methods such as payroll cards.

(3) Nothing in this section shall be construed as authorizing any employer to require the employees to have an account in any particular financial institution or type of financial institution. A single warrant may be drawn in favor of such financial institution, for the total amount due the employees involved, and written directions provided to such financial institution of the amount to be credited to the account of an employee or to be transferred to an account in another financial institution for such employee. The issuance and delivery by the disbursing officer of a warrant in accordance with the procedure set forth herein and proper indorsement thereof by the financial institution shall have the same legal effect as payment directly to the employee.

For the purposes of this section "financial institution" means any bank or trust company established in this state pursuant to chapter 2, Title 12, United

States Code, or Title 30 RCW, and any credit union established in this state pursuant to chapter 14, Title 12, United States Code, or chapter 31.12 RCW, and any mutual savings bank established in this state pursuant to Title 32 RCW, and any savings and loan association established in this state pursuant to chapter 12, Title 12, United States Code, or Title 33 RCW.

Sec. 4. RCW 28B.10.029 and 2011 1st sp.s. c 43 s 303 and 2011 c 198 s 1 are each reenacted and amended to read as follows:

(1)(a) An institution of higher education may exercise independently those powers otherwise granted to the director of enterprise services in chapter 43.19 RCW in connection with the purchase and disposition of all material, supplies, services, and equipment needed for the support, maintenance, and use of the respective institution of higher education.

(b) Property disposition policies followed by institutions of higher education shall be consistent with policies followed by the department of enterprise services.

(c)(i) Except as provided in (c)(ii) and (iii) of this subsection, purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937, 43.19.685, 43.19.700 through 43.19.704, and 43.19.560 through 43.19.637.

(ii) Institutions of higher education may use all appropriate means for making and paying for travel arrangements including, but not limited to, electronic booking and reservations, advance payment and deposits for tours, lodging, and other necessary expenses, and other travel transactions based on standard industry practices and federal accountable plan requirements. Such arrangements shall support student, faculty, staff, and other participants' travel, by groups and individuals, both domestic and international, in the most cost-effective and efficient manner possible, regardless of the source of funds.

(iii) Formal sealed, electronic, or web-based competitive bidding is not necessary for purchases or personal services contracts by institutions of higher education for less than one hundred thousand dollars. However, for purchases and personal services contracts of ten thousand dollars or more and less than one hundred thousand dollars, quotations must be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone, electronic, or written quotations, or any combination thereof. As part of securing the three vendor quotations, institutions of higher education must invite at least one quotation each from a certified minority and a certified woman-owned vendor that otherwise qualifies to perform the work. A record of competition for all such purchases and personal services contracts of ten thousand dollars or more and less than one hundred thousand dollars must be documented for audit purposes.

(d) Purchases under chapter 39.29, 43.19, or 43.105 RCW by institutions of higher education may be made by using contracts for materials, supplies, services, or equipment negotiated or entered into by, for, or through group purchasing organizations.

(e) The community and technical colleges shall comply with RCW 43.19.450.

(f) Except for the University of Washington, institutions of higher education shall comply with RCW 43.19.769, 43.19.763, and 43.19.781.

(g) If an institution of higher education can satisfactorily demonstrate to the director of the office of financial management that the cost of compliance is greater than the value of benefits from any of the following statutes, then it shall be exempt from them: RCW 43.19.685 and 43.19.637.

(h) Any institution of higher education that chooses to exercise independent purchasing authority for a commodity or group of commodities shall notify the director of enterprise services. Thereafter the director of enterprise services shall not be required to provide those services for that institution for the duration of the enterprise services contract term for that commodity or group of commodities.

(2) The council of presidents and the state board for community and technical colleges shall convene its correctional industries business development advisory committee, and work collaboratively with correctional industries, to:

(a) Reaffirm purchasing criteria and ensure that quality, service, and timely delivery result in the best value for expenditure of state dollars;

(b) Update the approved list of correctional industries products from which higher education shall purchase; and

(c) Develop recommendations on ways to continue to build correctional industries' business with institutions of higher education.

(3) Higher education and correctional industries shall develop a plan to build higher education business with correctional industries to increase higher education purchases of correctional industries products, based upon the criteria established in subsection (2) of this section. The plan shall include the correctional industries' production and sales goals for higher education and an approved list of products from which higher education institutions shall purchase, based on the criteria established in subsection (2) of this section. Higher education and correctional industries shall report to the legislature regarding the plan and its implementation no later than January 30, 2005.

(4)(a) Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2006, to purchase one percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections. Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2008, to purchase two percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

(b) Institutions of higher education shall endeavor to assure the department of corrections has notifications of bid opportunities with the goal of meeting or exceeding the purchasing target in (a) of this subsection.

NEW SECTION. **Sec. 5.** By January 1, 2017, institutions of higher education as defined in RCW 28B.10.016 must report to the legislature and the governor on: (1) The amount of savings resulting from use of the higher education provisions of this act; and (2) the manner in which such savings were used to promote student academic success.

Sec. 6. RCW 28B.15.031 and 2011 1st sp.s. c 10 s 2 and 2011 c 274 s 2 are each reenacted and amended to read as follows:

(1) The term "operating fees" as used in this chapter shall include the fees, other than building fees, charged all students registering at the state's colleges and universities but shall not include fees for short courses, self-supporting degree credit programs and courses, marine station work, experimental station work, correspondence or extension courses, and individual instruction and student deposits or rentals, disciplinary and library fines, which colleges and universities shall have the right to impose, laboratory, gymnasium, health, technology and student activity fees, or fees, charges, rentals, and other income derived from any or all revenue producing lands, buildings and facilities of the colleges or universities heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land, or the appurtenances thereon, or such other special fees as may be established by any college or university board of trustees or regents from time to time. All moneys received as operating fees at any institution of higher education shall be deposited in a local account containing only operating fees revenue and related interest: PROVIDED, That a minimum of five percent of operating fees shall be retained by the four-year institutions of higher education that increase tuition for resident undergraduate students above assumed tuition increases in the omnibus appropriations act, a minimum of four percent of operating fees shall be retained by four-year institutions of higher education that do not increase tuition for resident undergraduates above assumed increases in the omnibus appropriations act, and a minimum of three and one-half percent of operating fees shall be retained by the community and technical colleges for the purposes of RCW 28B.15.820. At least thirty percent of operating fees required to be retained by the four-year institutions for purposes of RCW 28B.15.820 shall be used only for the purposes of RCW 28B.15.820(10).

(2) In addition to the three and one-half percent of operating fees retained by the institutions under subsection (1) of this section, up to three percent of operating fees charged to students at community and technical colleges shall be transferred to the community and technical college innovation account for the implementation of the college board's strategic technology plan in RCW 28B.50.515. The percentage to be transferred to the community and technical college innovation account shall be determined by the college board each year but shall not exceed three percent of the operating fees collected each year.

(3) Local operating fee accounts shall not be subject to appropriation by the legislature ((~~or~~)) but shall be subject to allotment procedures by budget program and fiscal year under chapter 43.88 RCW.

Sec. 7. RCW 43.88.150 and 2011 1st sp.s. c 50 s 948 are each amended to read as follows:

(1) For those agencies that make expenditures from both appropriated and nonappropriated funds for the same purpose, the governor shall direct such agencies to charge their expenditures in such ratio, as between appropriated and nonappropriated funds, as will conserve appropriated funds. ((~~This subsection does not apply to~~)) For institutions of higher education, as defined in RCW 28B.10.016, ((~~except during the 2011-2013 fiscal biennium~~)) this subsection applies only to operating fee accounts.

(2) Unless otherwise provided by law, if state moneys are appropriated for a capital project and matching funds or other contributions are required as a

condition of the receipt of the state moneys, the state moneys shall be disbursed in proportion to and only to the extent that the matching funds or other contributions have been received and are available for expenditure.

(3) The office of financial management shall adopt guidelines for the implementation of this section. The guidelines may account for federal matching requirements or other requirements to spend other moneys in a particular manner.

Passed by the House March 7, 2012.
Passed by the Senate February 29, 2012.
Approved by the Governor 03/30/12, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State March 30, 2012.

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

"I am returning herewith, without my approval as to Section 2, Third Substitute House Bill 2585 entitled:

"AN ACT Relating to creating efficiencies for institutions of higher education."

Section 2 allows institutions of higher education to implement higher education health care special pay plans without the approval of the State Human Resources Director. Higher education health care special pay plans have existed for many years and the institutions do an excellent job in demonstrating the need for special pay ranges to be competitive with positions of a similar nature in the locality of the institutions. However, review of special pay plans by the State Human Resources Director prior to implementation is a necessary step to assess the impact of special pay ranges to the state's compensation structure. Only the State Human Resources Director can provide this enterprise wide perspective.

For this reason, I am vetoing Section 2 of Third Substitute House Bill 2585.

However, I appreciate the needs of institutions to find efficiencies in this process. Therefore, I am directing the State Human Resources Director to work with institutions of higher education to identify opportunities at the administrative level to streamline the process for reviewing special pay plans.

With the exception of Section 2, Third Substitute House Bill 2585 is approved."

CHAPTER 231

[Substitute Senate Bill 6468]

STATE RESEARCH UNIVERSITIES—INVESTMENT POLICIES

AN ACT Relating to policies governing investments by state research universities; amending RCW 43.33A.150; adding a new section to chapter 28B.10 RCW; and providing a contingent effective date.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.10 RCW to read as follows:

The boards of regents of the University of Washington and Washington State University may each adopt a policy creating an operating funds investment account, and may each deposit public moneys from operating funds not needed for immediate expenditure into that investment account. If a board of regents adopts a policy and deposits public moneys in an operating funds investment account, the state investment board has the full power to invest or reinvest the operating funds investment account in a manner consistent with RCW

43.33A.140. Income derived from investments pursuant to this section shall be for the exclusive benefit of and shall be credited to the state university less the applicable allocations to the state investment board expense account pursuant to RCW 43.33A.160. Each operating funds investment account shall be considered an investment fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein.

Sec. 2. RCW 43.33A.150 and 2007 c 215 s 4 are each amended to read as follows:

(1) The state investment board shall prepare written reports at least quarterly summarizing the investment activities of the state investment board, which reports shall be sent to the governor, the senate ways and means committee, the house appropriations committee, the department of retirement systems, and other agencies having a direct financial interest in the investment of funds by the board, and to other persons on written request. The state investment board shall provide information to the department of retirement systems necessary for the preparation of monthly reports.

(2) At least annually, the board shall report on the board's investment activities for the department of labor and industries' accident, medical aid, and reserve funds to the senate financial institutions and insurance committee, the senate economic development and labor committee, and the house commerce and labor committee, or appropriate successor committees.

(3) At least annually, the board shall report on the board's investment activities for the higher education permanent funds to the house capital budget committee and the senate ways and means committee.

(4) At least annually, the board shall report on the board's investment activities for the University of Washington and Washington State University operating funds investment accounts to the house ways and means committee and the senate ways and means committee.

NEW SECTION. **Sec. 3.** This act takes effect if the proposed amendment to Article XXIX, section 1 of the state Constitution (Senate Joint Resolution No. 8223) 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 Senate March 6, 2012.
Passed by the House March 2, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 232

[Engrossed Second Substitute House Bill 2536]

CHILDREN AND JUVENILE SERVICES—EVIDENCE-BASED PRACTICES

AN ACT Relating to the use of evidence-based practices for the delivery of services to children and juveniles; and adding a new chapter to Title 43 RCW.

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

NEW SECTION. **Sec. 1.** (1) The legislature intends that prevention and intervention services delivered to children and juveniles in the areas of mental

health, child welfare, and juvenile justice be primarily evidence-based and research-based, and it is anticipated that such services will be provided in a manner that is culturally competent.

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

(3) It is the intent of the legislature that increased use of evidence-based and research-based practices be accomplished to the extent possible within existing resources by coordinating the purchase of evidence-based services, the development of a trained workforce, and the development of unified and coordinated case plans to provide treatment in a coordinated and consistent manner.

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

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

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

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

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

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

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

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

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

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

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

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

(a) The number of children receiving each service;

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

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

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

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

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

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

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

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

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

(ii) The current and anticipated performance level; and

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

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

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

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

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

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

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

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

(3) Any child welfare training related to implementation of this chapter must be delivered by the University of Washington school of social work in coordination with the University of Washington evidence-based practices institute.

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

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

(b) Redirect funds in a manner that:

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

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

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

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

Passed by the House March 8, 2012.
Passed by the Senate March 8, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 233

[Engrossed Substitute House Bill 2570]

METAL PROPERTY THEFT

AN ACT Relating to metal property theft; amending RCW 9A.56.030 and 9A.56.040; creating a new section; prescribing penalties; and providing an expiration date.

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

***NEW SECTION.** Sec. 1. (1) The task force on commercial and nonferrous metal property theft is established. For purposes of this section, "commercial metal property," "nonferrous metal property," and "scrap metal business" have the same meanings as defined in RCW 19.290.010.*

(2) The purpose of the task force is to formulate suggestions for state policy regarding regulation of commercial and nonferrous metal property theft.

(3) The task force shall consist of the following members:

(a) A scrap metal business located in Washington that is not affiliated with the institute of scrap recycling industries;

(b) A scrap metal business located in Washington who is appointed by and a member of the institute of scrap recycling industries, or its successor organization and whose primary business location is located in a city with a minimum population more than five hundred thousand;

(c) A scrap metal business located in Washington who is appointed by and a member of the institute of scrap recycling industries, or its successor organization and whose primary business location is located in a city with a maximum population less than five hundred thousand;

(d) One investor-owned utility, as defined in RCW 19.29A.010, whose service territory is predominately located on the western side of the Cascade mountain range;

(e) One investor–owned utility, as defined in RCW 19.29A.010, whose service territory is predominately located on the eastern side of the Cascade mountain range;

(f) A consumer-owned utility, as defined in RCW 19.29A.010;

(g) A municipally owned utility;

(h) A representative of the Washington department of transportation;

(i) A representative of the Washington state prosecutors association;

(j) A representative of the Washington state patrol;

(k) A representative from a city with a population of less than five hundred thousand;

(l) A representative from a city with a population of more than five hundred thousand;

(m) A representative of a law enforcement agency, appointed by the Washington council of police and sheriffs;

(n) A representative from the Washington association of sheriffs and police chiefs;

(o) A representative from a county appointed by the Washington state association of counties;

(p) A representative of the broadband and cable telecommunications industry;

(q) A representative of the wireless telecommunications industry;

(r) A representative of the wireline telecommunications industry;

(s) A representative from the Washington state emergency communications committee;

(t) A representative from the AM/FM radio communications industry;

(u) A representative from the Washington state farm bureau;

(v) A representative of crime victims, appointed by the office of crime victims advocacy;

(w) A representative of a Washington state affiliate of a national trade association representing commercial electrical contractors installing electrical fixtures and materials; and

(x) A representative of a Washington state affiliate of a national trade association representing commercial plumbing contractors installing plumbing fixtures and materials.

(4) The task force shall elect a chair and organize itself in a manner, and adopt rules of procedure that it determines are most conducive to the timely completion of its charge.

(5) In conducting its study, the task force shall consider, at a minimum, the following issues:

(a) Penalties, both criminal and civil, for theft of commercial and nonferrous metal property including, but not limited to, issues such as categorization of crimes, trespass, organized commercial metal property theft, and aggregation of crimes;

(b) Valuation in the criminal prosecution of theft of commercial and nonferrous metal property, where the actual damages of the theft may greatly exceed the value of the stolen property;

(c) The role of local governments in policing and prosecuting theft of commercial and nonferrous property;

(d) Restrictions on cash purchases of commercial and nonferrous metal property;

(e) Private rights of action to prosecute theft of commercial and nonferrous metal property;

(f) Registration or licensing of all scrap metal businesses;

(g) A no-buy list for commercial and nonferrous metal purchases;

(h) Use and effectiveness of a scrap theft alert system, such as scraptheftalert.com, offered as a no fee service by the institute of scrap recycling industries; and

(i) Such other items the task force deems necessary.

(6) The task force shall meet at least quarterly.

(7) Members must seek reimbursement for travel and other membership expenses through their respective agencies or organizations within existing resources.

(8) The task force shall report its preliminary findings and recommendations for legislative action to the legislature by December 31, 2012. The task force shall continue to communicate and collaborate regarding a policy plan through December 31, 2014.

(9) This section expires December 31, 2014.

***Sec. 1 was vetoed. See message at end of chapter.**

Sec. 2. RCW 9A.56.030 and 2009 c 431 s 7 are each amended to read as follows:

(1) A person is guilty of theft in the first degree if he or she commits theft of:

(a) Property or services which exceed(s) five thousand dollars in value other than a firearm as defined in RCW 9.41.010;

(b) Property of any value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, taken from the person of another; ((~~or~~))

(c) A search and rescue dog, as defined in RCW 9.91.175, while the search and rescue dog is on duty; or

(d) Metal wire, taken from a public service company, as defined in RCW 80.04.010, or a consumer-owned utility, as defined in RCW 19.280.020, and the costs of the damage to the public service company's or consumer-owned utility's property exceed five thousand dollars in value.

(2) Theft in the first degree is a class B felony.

Sec. 3. RCW 9A.56.040 and 2009 c 431 s 8 are each amended to read as follows:

(1) A person is guilty of theft in the second degree if he or she commits theft of:

(a) Property or services which exceed(s) seven hundred fifty dollars in value but does not exceed five thousand dollars in value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle; ((~~or~~))

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant; ((~~or~~))

(c) Metal wire, taken from a public service company, as defined in RCW 80.04.010, or a consumer-owned utility, as defined in RCW 19.280.020, and the costs of the damage to the public service company's or consumer-owned utility's property exceed seven hundred fifty dollars but does not exceed five thousand dollars in value; or

(d) An access device.

(2) Theft in the second degree is a class C felony.

Passed by the House March 5, 2012.

Passed by the Senate March 2, 2012.

Approved by the Governor March 30, 2012, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2012.

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

"I am returning herewith, without my approval as to Section 1, Engrossed Substitute House Bill 2570 entitled:

"AN ACT Relating to metal property theft."

Section 1 creates a twenty-four member task force to study the issue of metal theft and make recommendations to the Legislature. As I have stated many times, I do not support the statutory creation of new boards, commissions, work groups, or task forces. I believe this task force can be assembled independently, by the interested parties, without the need for a statute. In the alternative, the Legislative Committee(s) with jurisdiction can make the issue part of its interim work plan.

For these reasons, I have vetoed Section 1 of Engrossed Substitute House Bill 2570.

With the exception of Section 1, Engrossed Substitute House Bill 2570 is approved."

CHAPTER 234

[Engrossed Substitute House Bill 2571]

MEDICAL SERVICES—WASTE, FRAUD, ABUSE

AN ACT Relating to waste, fraud, and abuse prevention, detection, and recovery to improve program integrity for medical services programs; adding a new chapter to Title 74 RCW; and providing an effective date.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to:

(1) Implement waste, fraud, and abuse detection, prevention, and recovery solutions to improve program integrity for medical services programs in the state and create efficiency and cost savings through a shift from a retrospective "pay and chase" model to a prospective prepayment model; and

(2) Invest in the most cost-effective technologies or strategies that yield the highest return on investment.

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

(1) "Authority" means the Washington state health care authority.

(2) "Enrollee" means an individual who receives benefits through a medical services program.

(3) "Medical services programs" means those medical programs established under chapter 74.09 RCW, including medical assistance, the limited casualty program, children's health program, medical care services, and state children's health insurance program.

NEW SECTION. **Sec. 3.** (1) Not later than September 1, 2012, the authority shall issue a request for information to seek input from potential contractors on capabilities that the authority does not currently possess, functions that the authority is not currently performing, and the cost structures associated with implementing:

(a) Advanced predictive modeling and analytics technologies to provide a comprehensive and accurate view across all providers, enrollees, and geographic locations within the medical services programs in order to:

(i) Identify and analyze those billing or utilization patterns that represent a high risk of fraudulent activity;

(ii) Be integrated into the existing medical services programs claims operations;

(iii) Undertake and automate such analysis before payment is made to minimize disruptions to agency operations and speed claim resolution;

(iv) Prioritize such identified transactions for additional review before payment is made based on the likelihood of potential waste, fraud, or abuse;

(v) Obtain outcome information from adjudicated claims to allow for refinement and enhancement of the predictive analytics technologies based on historical data and algorithms with the system;

(vi) Prevent the payment of claims for reimbursement that have been identified as potentially wasteful, fraudulent, or abusive until the claims have been automatically verified as valid;

(b) Provider and enrollee data verification and screening technology solutions, which may use publicly available records, for the purposes of automating reviews and identifying and preventing inappropriate payments by:

(i) Identifying associations between providers, practitioners, and beneficiaries which indicate rings of collusive fraudulent activity; and

(ii) Discovering enrollee attributes which indicate improper eligibility, including, but not limited to, death, out-of-state residence, inappropriate asset ownership, or incarceration; and

(c) Fraud investigation services that combine retrospective claims analysis and prospective waste, fraud, or abuse detection techniques. These services must include analysis of historical claims data, medical records, suspect provider databases, and high-risk identification lists, as well as direct enrollee and provider interviews. Emphasis must be placed on providing education to providers and allowing them the opportunity to review and correct any problems identified prior to adjudication.

(2) The authority is encouraged to use the results of the request for information to create a formal request for proposals to carry out the work identified in this section if the following conditions are met:

(a) The authority expects to generate state savings by preventing fraud, waste, and abuse;

(b) This work can be integrated into the authority's current medical services claims operations without creating additional costs to the state;

(c) The reviews or audits are not anticipated to delay or improperly deny the payment of legitimate claims to providers.

NEW SECTION. **Sec. 4.** It is the intent of the legislature that the savings achieved through this chapter shall more than cover the cost of implementation and administration. Therefore, to the extent possible, technology services used in carrying out this chapter must be secured using the savings generated by the program, whereby the state's only direct cost will be funded through the actual savings achieved. Further, to enable this model, reimbursement to the contractor may be contracted on the basis of a percentage of achieved savings model, a per beneficiary per month model, a per transaction model, a case-rate model, or any blended model of the aforementioned methodologies. Reimbursement models with the contractor may include performance guarantees of the contractor to ensure savings identified exceeds program costs.

NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute a new chapter in Title 74 RCW.

NEW SECTION. **Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 7.** This act takes effect July 1, 2012.

Passed by the House February 13, 2012.
Passed by the Senate March 8, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 235

[Substitute House Bill 2640]

HOUSING TRUST FUND—COST-EFFECTIVENESS

AN ACT Relating to emphasizing cost-effectiveness in the housing trust fund; amending RCW 43.185A.050; and reenacting and amending RCW 43.185.070.

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

Sec. 1. RCW 43.185.070 and 2005 c 518 s 1802 and 2005 c 219 s 2 are each reenacted and amended to read as follows:

(1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department. Administrative costs paid out of the housing trust fund may not exceed five percent of annual revenues available for distribution to housing trust fund projects.

(2) In awarding funds under this chapter, the department ((~~shall~~)) must:

(a) Provide for a geographic distribution on a statewide basis; and

(b) Until June 30, 2013, consider the total cost and per-unit cost of each project for which an application is submitted for funding under RCW 43.185.050(2) (a) and (j), as compared to similar housing projects constructed or renovated within the same geographic area.

((~~(2)~~)) (3) The department, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, or a subcommittee of the affordable housing advisory board, must report recommendations for awarding funds in a cost-effective manner. The report must include an implementation plan, timeline, and any other items the department identifies as important to consider to the legislature by December 1, 2012.

(4) The department shall give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities shall be evaluated under subsection ((~~(3)~~))

(5) of this section. Second priority shall be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities shall be evaluated by some or all of the criteria under subsection ((~~(3)~~)) (5) of this section, and similar projects and activities shall be evaluated under the same criteria.

((~~(3)~~)) (5) The department shall give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities shall be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the lowest incomes;

(j) Projects serving special needs populations which are under statutory mandate to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020; and

(m) Project location and access to available public transportation services.

((~~(4)~~)) (6) The department shall only approve applications for projects for ((~~mentally ill~~)) persons with mental illness that are consistent with a regional support network six-year capital and operating plan.

Sec. 2. RCW 43.185A.050 and 1991 c 356 s 14 are each amended to read as follows:

(1) During each calendar year in which funds are available for use by the department for the affordable housing program, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department, not to exceed five percent of moneys appropriated to the affordable housing program.

(2) Until June 30, 2013, for applications submitted for funding under RCW 43.185A.030(2)(a), the department shall consider total cost and per-unit cost of

each project compared to similar housing projects constructed or renovated within the same geographic area.

(3) The department shall develop, with advice and input from the ((~~low-income [housing] assistance advisory committee~~)) affordable housing advisory board established in RCW ((~~43.185.110~~)) 43.185B.020, or a subcommittee of the affordable housing advisory board:

(a) Additional criteria to evaluate applications for assistance under this chapter; and

(b) Recommendations for awarding funds under RCW 43.185A.030(2)(a) in a cost-effective manner, including an implementation plan, timeline, and any other items the department identifies as important to consider. The department must submit a report with the recommendations to the legislature by December 1, 2012.

Passed by the House February 11, 2012.
Passed by the Senate March 5, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 236

[Engrossed House Bill 2771]

STATE RETIREMENT SYSTEMS—EMPLOYER/EMPLOYEE RELATIONSHIPS

AN ACT Relating to employer and employee relationships under the state retirement systems; amending RCW 41.26.030, 41.32.010, and 41.40.010; reenacting and amending RCW 41.35.010 and 41.37.010; adding a new section to chapter 41.04 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** (1) On August 18, 2011, the state supreme court entered an opinion in the matter of *Dolan v. King County*, Cause No. 82842-3. The court recognized that a public employees' retirement system eligible employee must work for a public employees' retirement system employer under RCW 41.40.010. However, the court did not explain how such an employee can be an employee of a government contractor and also of a government employer. The legislature determines it necessary and appropriate to affirmatively state that a governmental contractor is not an employer for purposes of the state's public pension systems, including the public employees' retirement system, whether or not the contractor is providing mandatory or discretionary governmental services, and whether or not the contractor is a for-profit or not-for-profit entity.

(2) The legislature has not intended in its pension legislation to provide retirement system eligibility to employees of government contractors. Only in specific circumstances, such as employees of entities, including nonprofits, created by government under the interlocal cooperation act in chapter 39.34 RCW, has the legislature and department of retirement systems permitted retirement system eligibility for employees of government contractors. The department's rules in WAC 415-02-110 conform to the purpose and intent of the legislature regarding public pension eligibility.

(3) It is the purpose of this act to more clearly state and to confirm that employees of for-profit or not-for-profit corporations or other entities providing services under governmental contracts are not, as a result of providing such governmental service, eligible for membership in the various public retirement

programs. The state and its local governments have not provided for such eligibility and such eligibility would create unfunded liability for state and local governments and potential impacts on the integrity of the public pension systems.

(4) This act provides cross-references to existing statutes that affect eligibility for pensions under the retirement systems authorized by chapters 41.26, 41.32, 41.35, 41.37, 41.40, and 41.50 RCW and to the relevant definition sections of those chapters. Except as provided, this act is technical in nature and neither enhances nor diminishes existing pension rights. It is not the intent of the legislature to change the substance or effect of any statute previously enacted. Rather, this act provides cross-references to applicable statutes in order to aid with the administration of eligibility and benefits authorized in chapters 41.26, 41.32, 41.35, 41.37, 41.40, and 41.50 RCW.

(5) This act shall apply solely to eligibility for state-sponsored public employee pension plans under chapters 41.26, 41.32, 41.35, 41.37, and 41.40 RCW and shall not affect any other statute or rule regarding employee benefits, status, or workplace protections.

(6) This act is curative and remedial, but does not affect the state supreme court decision in *Dolan v. King County*, Cause No. 82842-3, and the right established therein of King county public defenders and staff to public employees' retirement system enrollment and eligibility.

Sec. 2. RCW 41.26.030 and 2011 1st sp.s. c 5 s 1 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(2) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(3) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(4)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan 2 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 lump sum payments for deferred

annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, 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.

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(7) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(8) "Director" means the director of the department.

(9) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(10) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(11) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(12) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.020.

(13) "Employee" means any law enforcement officer or firefighter as defined in subsections (16) and (18) of this section.

(14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or firefighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the firefighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or firefighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or firefighter:

(i) The legislative authority of any city, town, county, or district;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency; or

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996.

(c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an "employer," but is based solely on the relationship between a government contractor's employee and an "employer" under this chapter.

(15)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; and

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(16) "Firefighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for firefighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time firefighter where the fire department does not have a civil service examination;

(c) Supervisory firefighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (16)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (16)(e) shall not apply to plan 2 members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for firefighter;

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW; and

(h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician.

(17) "General authority 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, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency 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, and the state department of corrections. A general authority law enforcement agency under this chapter does not include a government contractor.

(18) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (18)(d) shall not apply to plan 2 members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (18)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(19) "Medical services" for plan 1 members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic X-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(20) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsections (16) or (18) of this section whose membership is transferred to the Washington law enforcement officers' and firefighters' retirement system on or after March 1, 1970, and every law enforcement officer and firefighter who is employed in that capacity on or after such date.

(21) "Plan 1" means the law enforcement officers' and firefighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(22) "Plan 2" means the law enforcement officers' and firefighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(23) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(24) "Regular interest" means such rate as the director may determine.

(25) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(26) "Retirement fund" means the "Washington law enforcement officers' and firefighters' retirement system fund" as provided for herein.

(27) "Retirement system" means the "Washington law enforcement officers' and firefighters' retirement system" provided herein.

(28)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan 2 members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(29) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(30) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(31) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(32) "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.

(33) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

Sec. 3. RCW 41.32.010 and 2011 1st sp.s. c 5 s 2 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan 1 members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan 2 members, 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.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(5) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(6) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty 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 41.32.810(2).

(7)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, 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.

(8) "Contract" means any agreement for service and compensation between a member and an employer.

(9) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

(10) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(11) "Dependent" means receiving one-half or more of support from a member.

(12) "Director" means the director of the department.

(13) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan 1 members.

(14)(a) "Earnable compensation" for plan 1 members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) For an employee member of the retirement system teaching in an extended school year program, two consecutive extended school years, as defined by the employer school district, may be used as the annual period for determining earnable compensation in lieu of the two fiscal years.

(iii) "Earnable compensation" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) 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 in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iv) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(v) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 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 lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, 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 in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, 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 earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching 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.

(c) In calculating earnable compensation under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; and

(ii) Any compensation forgone by a member during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary reductions.

(15)(a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or

more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(16) "Employed" or "employee" 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.

(17) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid. Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter.

(18) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(19) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(20) "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.

(21) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(22) "Index B" means the index for the year prior to index A.

(23) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(24) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(25) "Member" means any teacher included in the membership of the retirement system who has not been removed from membership under RCW 41.32.878 or 41.32.768. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(26) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(27) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(28) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan 1 members.

(29) "Pension" means the moneys payable per year during life from the pension reserve.

(30) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(31) "Plan 1" means the teachers' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(32) "Plan 2" means the teachers' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(33) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(34) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(35) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

(36) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(37) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan 1 members.

(38) "Regular interest" means such rate as the director may determine.

(39) "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.

(40)(a) "Retirement allowance" for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(41) "Retirement system" means the Washington state teachers' retirement system.

(42) "Separation from service or employment" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.32.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following

termination. Mere expressions or inquiries about postretirement employment by an employer or employee that do not constitute a commitment to reemploy the employee after retirement are not an agreement under this section.

(43)(a) "Service" for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132.

(ii) Any other member employed in an eligible position or as a substitute who earns earnable compensation during the period from September through August shall receive service credit according to one of the following methods, whichever provides the most service credit to the member:

(A) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(B) If a member is employed in an eligible position or as a substitute teacher for at least five months of a six-month period between September through August of the following year and earns earnable compensation for six hundred thirty or more hours within the six-month period, he or she will receive a maximum of six service credit months for the school year, which shall be recorded as one service credit month for each month of the six-month period;

(C) All other members employed in an eligible position or as a substitute teacher shall receive service credit as follows:

(I) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(II) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(III) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iii) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(iv) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(v) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vi) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(vii) The department shall adopt rules implementing this subsection.

(44) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(45) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(46) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(47) "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.

(48) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(49) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

Sec. 4. RCW 41.35.010 and 2011 1st sp.s. c 5 s 3 are each reenacted and amended to read as follows:

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

(1) "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.

(2) "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.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(5)(a) "Average final compensation" for plan 2 and plan 3 members 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 41.40.710(2).

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include any compensation forgone by a member during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary reductions.

(6) "Beneficiary" for plan 2 and plan 3 members 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.

(7) "Classified employee" means an employee of a school district or an educational service district who is not eligible for membership in the teachers' retirement system established under chapter 41.32 RCW.

(8)(a) "Compensation earnable" for plan 2 and plan 3 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 plan 2 and plan 3 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 this (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 41.40.038;

(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.

(9) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(10) "Director" means the director of the department.

(11) "Eligible position" means any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(12) "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.

(13) "Employer," for plan 2 and plan 3 members, means a school district or an educational service district. Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter.

(14) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(15) "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.

(16) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(17) "Index B" means the index for the year prior to index A.

(18) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

(19) "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.

(20) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.35.030.

(21) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(22) "Membership service" means all service rendered as a member.

(23) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(24) "Plan 2" means the Washington school employees' retirement system plan 2 providing the benefits and funding provisions covering persons who first became members of the public employees' retirement system on and after October 1, 1977, and transferred to the Washington school employees' retirement system under RCW 41.40.750.

(25) "Plan 3" means the Washington school employees' retirement system plan 3 providing the benefits and funding provisions covering persons who first became members of the system on and after September 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

(26) "Regular interest" means such rate as the director may determine.

(27) "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.

(28) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(29) "Retirement allowance" for plan 2 and plan 3 members means monthly payments to a retiree or beneficiary as provided in this chapter.

(30) "Retirement system" means the Washington school employees' retirement system provided for in this chapter.

(31) "Separation from service" occurs when a person has terminated all employment with an employer.

(32) "Service" for plan 2 and plan 3 members means periods of employment by a member in an eligible position or positions 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 except as provided in RCW 41.35.180. 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.

(c) For purposes of plan 2 and 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(i) Less than eleven days equals one-quarter service credit month;

(ii) Eleven or more days but less than twenty-two days equals one-half service credit month;

(iii) Twenty-two days equals one service credit month;

(iv) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month; and

(v) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(33) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(34) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "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.

(37) "State treasurer" means the treasurer of the state of Washington.

(38) "Substitute employee" means a classified employee who is employed by an employer exclusively as a substitute for an absent employee.

Sec. 5. RCW 41.37.010 and 2011 1st sp.s. c 5 s 4 and 2011 c 68 s 1 are each reenacted and amended to read as follows:

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

(1) "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.

(2) "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.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(5)(a) "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.

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; and

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(6) "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.

(7)(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 41.37.060;

(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.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

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

(10) "Eligible position" means any permanent, full-time position included in subsection (19) of this section.

(11) "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.

(12) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state department of natural resources, and the Washington state liquor control board; any county corrections department; any city corrections department not covered under chapter 41.28 RCW; and any public corrections entity created under RCW 39.34.030 by counties, cities not covered under chapter 41.28 RCW, or both. Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter.

(13) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(14) "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.

(15) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(16) "Index B" means the index for the year prior to index A.

(17) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (10) of this section.

(18) "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.

(19) "Member" means any employee employed by an employer on a full-time basis:

(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.

(20) "Membership service" means all service rendered as a member.

(21) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(22) "Plan" means the Washington public safety employees' retirement system plan 2.

(23) "Regular interest" means such rate as the director may determine.

(24) "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.

(25) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(26) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(27) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

(28) "Separation from service" occurs when a person has terminated all employment with an employer.

(29) "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.

(30) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(31) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "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.

(34) "State treasurer" means the treasurer of the state of Washington.

Sec. 6. RCW 41.40.010 and 2011 1st sp.s. c 5 s 5 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "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.

(2) "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.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(5) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(6)(a) "Average final compensation" for plan 1 members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan 2 and plan 3 members, 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 41.40.710(2) or (c) of this subsection.

(c) In calculating average final compensation under this subsection for a member of plan 1, 2, or 3, the department of retirement systems shall include:

(i) Any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary furloughs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; and

(ii) Any compensation forgone by a member employed by the state or a local government during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to

current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(7)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, 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.

(8)(a) "Compensation earnable" for plan 1 members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) 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 in a position 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 and the individual shall receive the equivalent service credit;

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) 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

(F) 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.

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan 2 and plan 3 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.

"Compensation earnable" for plan 2 and plan 3 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 in a position 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 above, 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 41.40.038;

(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.

(9) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(10) "Director" means the director of the department.

(11) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which compensation is paid.

(12) "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.

(13)(a) "Employer" for plan 1 members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan 2 and plan 3 members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

(c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an "employer," but is based solely on the relationship between a government contractor's employee and an "employer" under this chapter.

(14) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(15) "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.

(16) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(17) "Index B" means the index for the year prior to index A.

(18) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(19) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (11) of this section.

(20) "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.

(21) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(22) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(23) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(24) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(25) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(26) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(27) "Plan 1" means the public employees' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(28) "Plan 2" means the public employees' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and are not included in plan 3.

(29) "Plan 3" means the public employees' retirement system, plan 3 providing the benefits and funding provisions covering persons who:

(a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

(30) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(31) "Regular interest" means such rate as the director may determine.

(32) "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.

(33) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(34) "Retirement allowance" means the sum of the annuity and the pension.

(35) "Retirement system" means the public employees' retirement system provided for in this chapter.

(36) "Separation from service" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.40.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination. Mere expressions or inquiries about postretirement employment by an employer or employee that do not constitute a commitment to reemploy the employee after retirement are not an agreement under this subsection.

(37)(a) "Service" for plan 1 members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the

computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any 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 seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member in an eligible position or positions 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 except as provided in RCW 41.40.088. 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.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and firefighters' retirement system at the time of election or appointment to such position may elect to continue membership in the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and firefighters' retirement system.

(ii) 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.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(38) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(39) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(40) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(41) "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.

(42) "State treasurer" means the treasurer of the state of Washington.

(43) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

NEW SECTION. **Sec. 7.** A new section is added to chapter 41.04 RCW to read as follows:

(1) This act is curative and remedial and is applicable to any future determination of eligibility for membership in a retirement system under chapters 41.26, 41.32, 41.35, 41.37, and 41.40 RCW.

(2) This act does not apply to or contravene any prior final decision of the state supreme court regarding the interpretation of the statutes addressed in this act.

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

Passed by the House March 3, 2012.
Passed by the Senate March 1, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 237

[House Bill 2803]

INCARCERATED OFFENDERS—MEDICAL SERVICES

AN ACT Relating to limiting the rates paid to providers for medical services for incarcerated offenders, increasing the copay on medical services, and authorizing the department of corrections to

submit medicaid applications on behalf of incarcerated offenders; amending RCW 72.10.020 and 72.10.030; and adding a new section to chapter 70.41 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The department shall pay hospitals through the provider one system operated by the Washington state health care authority;

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

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

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

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

Passed by the House March 8, 2012.
Passed by the Senate March 8, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 238

[Second Substitute Senate Bill 5343]

ANAEROBIC DIGESTERS—AIR EMISSIONS

AN ACT Relating to air emissions from anaerobic digesters; adding a new section to chapter 70.94 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 70.94 RCW to read as follows:

(1) A generator operating at an electric generating project with an installed generator capacity of at least seven hundred fifty kilowatts but not exceeding one thousand kilowatts, that is in operation on the effective date of this act and began operating after 2008, and that is located on agricultural lands of long-term commercial significance pursuant to chapter 36.70A RCW, is granted an extended compliance period for permit provisions related to the emissions limit for sulfur established by the department or a local air authority until December 31, 2016, if it is fueled by biogas that is produced by an anaerobic digester that qualifies for the solid waste permitting exemption specified in RCW 70.95.330.

(2) A generator that meets the requirements in subsection (1) of this section may not be located in a federally designated nonattainment or maintenance area.

(3) Upon request, the department or a local air authority must provide technical assistance to a generator meeting the requirements in subsection (1) of this section to assist the generator in reducing its emissions in order to meet the requirements in this chapter.

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

(a) "Anaerobic digester" means a vessel that processes organic material into biogas and digestate using microorganisms in a decomposition process within a closed, oxygen-free container.

(b) "Generator" means an internal combustion engine that converts biogas into electricity, and includes any back-up combustion device to burn biogas when an engine is idled for maintenance.

NEW SECTION. **Sec. 2.** (1) By December 1, 2012, the department of ecology must submit a report to the appropriate standing committees of the legislature containing information regarding the degree to which current state air quality regulations consider different feed sources for anaerobic digesters and strategies to address the different feed sources used in anaerobic digesters. The department of ecology must consult with interested parties in drafting the report.

(2) The definitions in section 1(4) of this act apply throughout this section.

NEW SECTION. **Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2012, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 6, 2012.
Passed by the House March 2, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 239

[Senate Bill 5365]

RETIREMENT PENSION COVERAGE—
VOLUNTEER FIREFIGHTERS AND RESERVE OFFICERS

AN ACT Relating to the purchase of retirement pension coverage by certain volunteer firefighters and reserve officers; and adding a new section to chapter 41.24 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.24 RCW to read as follows:

(1) At any time prior to or upon retiring and prior to receiving any pension disbursements, a participant is allowed to:

(a) Purchase retirement pension coverage as provided in subsection (2) of this section for years of service credited prior to their enrollment in the pension system, and for which reinstatement of years of service is not available under RCW 41.24.040; or

(b) Purchase retirement pension coverage as provided in subsection (2) of this section for years of service that were lost due to the withdrawal of pension fees.

(2) The participant and/or the municipality must make payment for the purchase of retirement pension coverage by paying the actuarial value of the resulting benefit increase in a manner defined by the state board.

(3) Retirement pension coverage may only be purchased for the period in which service was performed as defined in RCW 41.24.010(9) and in a manner consistent with this section.

Passed by the Senate February 9, 2012.
Passed by the House March 1, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 240

[Senate Bill 5950]

TOWNS—NONSTATE PENSION PLANS

AN ACT Relating to nonstate pension plans offered by towns; and amending RCW 35.27.130.

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

Sec. 1. RCW 35.27.130 and 1993 c 47 s 3 are each amended to read as follows:

The mayor and members of the town council may be reimbursed for actual expenses incurred in the discharge of their official duties upon presentation of a claim therefor and its allowance and approval by resolution of the town council. The mayor and members of the council may also receive such salary as the council may fix by ordinance.

The treasurer and treasurer-clerk shall severally receive at stated times a compensation to be fixed by ordinance.

The compensation of all other officers and employees shall be fixed from time to time by the council.

Any town that provides a pension for any of its employees under a plan not administered by the state must notify the state auditor of the existence of the plan at the time of an audit of the town by the auditor. No town may establish a pension plan for its employees that is not administered by the state, ((~~except that any~~)) with the following exceptions:

(1) Participation in a defined contribution plan in existence as of January 1, 1990, is deemed to have been authorized. No town that provides a defined contribution plan for its employees as authorized by this section may make any material changes in the terms or conditions of the plan after June 7, 1990.

(2) Participation in a defined benefit pension plan that commenced prior to January 1, 1999, is authorized to continue. No town that commenced participation in a defined benefit pension plan that is not administered by the state may make any material changes in the terms or conditions of the plan after June 7, 1999.

Passed by the Senate March 8, 2012.
Passed by the House March 8, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 241

[Engrossed Substitute Senate Bill 5978]

MEDICAID FRAUD

AN ACT Relating to medicaid fraud; amending RCW 74.09.210; adding new sections to chapter 74.09 RCW; adding new sections to chapter 43.131 RCW; adding a new chapter to Title 74 RCW; creating a new section; prescribing penalties; and declaring an emergency.

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

PART I
WASHINGTON MEDICAID FRAUD PROVISIONS

NEW SECTION. **Sec. 101.** The legislature intends to enact a state false claims act in order to provide this state with another tool to combat medicaid fraud. The legislature finds that between 1996 and 2009 state-initiated false claims acts resulted in over five billion dollars in total recoveries to those states. The highest recoveries in those cases were from claims relating to billing fraud, off-label marketing, and withholding safety information; these cases were primarily related to the pharmaceuticals industry and hospital networks, hospitals, and medical centers. By this act, the legislature does not intend to target a certain industry, profession, or retailer of medical equipment, or to place

an undue burden on health care professionals. This act is not intended to harass health care professionals, nor is intended to be used as a tool to target actions that are related to incidental errors or clerical errors, which should not be considered fraud. The intent is to use the false claims act to root out significant areas of fraud that result in higher health care costs to this state and to use the false claims act to recover state money that could and should be used to support the medicaid program.

Sec. 102. RCW 74.09.210 and 2011 1st sp.s. c 15 s 15 are each amended to read as follows:

(1) No person, firm, corporation, partnership, association, agency, institution, or other legal entity, but not including an individual public assistance recipient of health care, shall, on behalf of himself or others, obtain or attempt to obtain benefits or payments under this chapter in a greater amount than that to which entitled by means of:

(a) A willful false statement;

(b) By willful misrepresentation, or by concealment of any material facts; or

(c) By other fraudulent scheme or device, including, but not limited to:

(i) Billing for services, drugs, supplies, or equipment that were unfurnished, of lower quality, or a substitution or misrepresentation of items billed; or

(ii) Repeated billing for purportedly covered items, which were not in fact so covered.

(2) Any person or entity knowingly violating any of the provisions of subsection (1) of this section shall be liable for repayment of any excess benefits or payments received, plus interest at the rate and in the manner provided in RCW 43.20B.695. Such person or other entity shall further, in addition to any other penalties provided by law, be subject to civil penalties. The ((~~secretary or~~)) director((~~, as appropriate,~~)) or the attorney general may assess civil penalties in an amount not to exceed three times the amount of such excess benefits or payments: PROVIDED, That these civil penalties shall not apply to any acts or omissions occurring prior to September 1, 1979. RCW 43.20A.215 governs notice of a civil fine assessed by the director and provides the right to an adjudicative proceeding.

(3) A criminal action need not be brought against a person for that person to be civilly liable under this section.

(4) In all administrative proceedings under this section, service, adjudicative proceedings, and judicial review of such determinations shall be in accordance with chapter 34.05 RCW, the administrative procedure act.

(5) Civil penalties shall be deposited ((~~in the general fund~~)) upon their receipt into the medicaid fraud penalty account established in section 103 of this act.

(6) The attorney general may contract with private attorneys and local governments in bringing actions under this section as necessary.

NEW SECTION. **Sec. 103.** A new section is added to chapter 74.09 RCW to read as follows:

The medicaid fraud penalty account is created in the state treasury. All receipts from civil penalties collected under RCW 74.09.210, all receipts received under judgments or settlements that originated under a filing under the federal false claims act, and all receipts received under judgments or settlements

that originated under the state medicaid fraud false claims act, chapter 74.— RCW (the new chapter created in section 215 of this act) must be deposited into the account. Moneys in the account may be spent only after appropriation and must be used only for medicaid services, fraud detection and prevention activities, recovery of improper payments, and for other medicaid fraud enforcement activities.

NEW SECTION. **Sec. 104.** A new section is added to chapter 74.09 RCW to read as follows:

(1) For the purposes of this section:

(a) "Employer" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity.

(b) "Whistleblower" means an employee of an employer that obtains or attempts to obtain benefits or payments under this chapter in violation of RCW 74.09.210, who in good faith reports a violation of RCW 74.09.210 to the authority.

(c) "Workplace reprisal or retaliatory action" includes, but is not limited to: Denial of adequate staff to fulfill duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct under Title 18 RCW; unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; suspension; dismissal; denial of employment; or a supervisor or superior behaving in or encouraging coworkers to behave in a hostile manner toward the whistleblower; or a change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish.

(2) A whistleblower who has been subjected to workplace reprisal or retaliatory action has the remedies provided under chapter 49.60 RCW. RCW 4.24.500 through 4.24.520, providing certain protection to persons who communicate to government agencies, apply to complaints made under this section. The identity of a whistleblower who complains, in good faith, to the authority about a suspected violation of RCW 74.09.210 may remain confidential if requested. The identity of the whistleblower must subsequently remain confidential unless the authority determines that the complaint was not made in good faith.

(3) This section does not prohibit an employer from exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower. The protections provided to whistleblowers under this chapter do not prevent an employer from: (a) Terminating, suspending, or disciplining a whistleblower for other lawful purposes; or (b) reducing the hours of employment or terminating employment as a result of the demonstrated inability to meet payroll requirements. The authority shall determine if the employer cannot meet payroll in cases where a whistleblower has been terminated or had hours of employment reduced due to the inability of a facility to meet payroll.

(4) The authority shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under this chapter. The authority shall adopt rules

designed to discourage whistleblower complaints made in bad faith or for retaliatory purposes.

NEW SECTION. **Sec. 105.** A new section is added to chapter 74.09 RCW to read as follows:

The following must be medicare providers in order to be paid under the medicaid program: Providers of durable medical equipment and related supplies and providers of medical supplies and related services.

PART II
MEDICAID FRAUD FALSE CLAIMS ACT

NEW SECTION. **Sec. 201.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1)(a) "Claim" means any request or demand made for a medicaid payment under chapter 74.09 RCW, whether under a contract or otherwise, for money or property and whether or not a government entity has title to the money or property, that:

(i) Is presented to an officer, employee, or agent of a government entity; or

(ii) Is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the government entity's behalf or to advance a government entity program or interest, and the government entity:

(A) Provides or has provided any portion of the money or property requested or demanded; or

(B) Will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

(b) A "claim" does not include requests or demands for money or property that the government entity has paid to an individual as compensation for employment or as an income subsidy with no restrictions on that individual's use of the money or property.

(2) "Custodian" means the custodian, or any deputy custodian, designated by the attorney general.

(3) "Documentary material" includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret the data compilations, and any product of discovery.

(4) "False claims act investigation" means any inquiry conducted by any false claims act investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of this chapter.

(5) "False claims act investigator" means any attorney or investigator employed by the state attorney general who is charged with the duty of enforcing or carrying into effect any provision of this chapter, or any officer or employee of the state of Washington acting under the direction and supervision of the attorney or investigator in connection with an investigation pursuant to this chapter.

(6) "Government entity" means all Washington state agencies that administer medicaid funded programs under this title.

(7)(a) "Knowing" and "knowingly" mean that a person, with respect to information:

(i) Has actual knowledge of the information;

(ii) Acts in deliberate ignorance of the truth or falsity of the information; or

(iii) Acts in reckless disregard of the truth or falsity of the information.

(b) "Knowing" and "knowingly" do not require proof of specific intent to defraud.

(8) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

(9) "Obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or rule, or from the retention of any overpayment.

(10) "Official use" means any use that is consistent with the law, and the rules and policies of the attorney general, including use in connection with: Internal attorney general memoranda and reports; communications between the attorney general and a federal, state, or local government agency, or a contractor of a federal, state, or local government agency, undertaken in furtherance of an investigation or prosecution of a case; interviews of any qui tam relator or other witness; oral examinations; depositions; preparation for and response to civil discovery requests; introduction into the record of a case or proceeding; applications, motions, memoranda, and briefs submitted to a court or other tribunal; and communications with attorney general investigators, auditors, consultants and experts, the counsel of other parties, and arbitrators or mediators, concerning an investigation, case, or proceeding.

(11) "Person" means any natural person, partnership, corporation, association, or other legal entity, including any local or political subdivision of a state.

(12) "Product of discovery" includes:

(a) The original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;

(b) Any digest, analysis, selection, compilation, or derivation of any item listed in (a) of this subsection; and

(c) Any index or other manner of access to any item listed in (a) of this subsection.

(13) "Qui tam action" is an action brought by a person under section 205 of this act.

(14) "Qui tam relator" or "relator" is a person who brings an action under section 205 of this act.

NEW SECTION. **Sec. 202.** (1) Subject to subsections (2) and (4) of this section, a person is liable to the government entity for a civil penalty of not less than five thousand five hundred dollars and not more than eleven thousand dollars, plus three times the amount of damages which the government entity sustains because of the act of that person, if the person:

(a) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(b) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

(c) Conspires to commit one or more of the violations in this subsection (1);

(d) Has possession, custody, or control of property or money used, or to be used, by the government entity and knowingly delivers, or causes to be delivered, less than all of that money or property;

(e) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the government entity and, intending to defraud the government entity, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(f) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the government entity who lawfully may not sell or pledge property; or

(g) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the government entity, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the government entity.

(2) The court may assess not less than two times the amount of damages which the government entity sustains because of the act of a person, if the court finds that:

(a) The person committing the violation of subsection (1) of this section furnished the Washington state attorney general with all information known to him or her about the violation within thirty days after the date on which he or she first obtained the information;

(b) The person fully cooperated with any investigation by the attorney general of the violation; and

(c) At the time the person furnished the attorney general with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.

(3) A person violating this section is liable to the attorney general for the costs of a civil action brought to recover any such penalty or damages.

(4) For the purposes of determining whether an insurer has a duty to provide a defense or indemnification for an insured and if coverage may be denied if the terms of the policy exclude coverage for intentional acts, a violation of subsection (1) of this section is an intentional act.

(5) The office of the attorney general must, by rule, annually adjust the civil penalties established in subsection (1) of this section so that they are equivalent to the civil penalties provided under the federal false claims act and in accordance with the federal civil penalties inflation adjustment act of 1990.

NEW SECTION. **Sec. 203.** Any information furnished pursuant to this chapter is exempt from disclosure under the public records act, chapter 42.56 RCW, until final disposition and all court ordered seals are lifted.

NEW SECTION. **Sec. 204.** The attorney general must diligently investigate a violation under section 202 of this act. If the attorney general finds

that a person has violated or is violating section 202 of this act, the attorney general may bring a civil action under this section against the person.

NEW SECTION. **Sec. 205.** (1) A person may bring a civil action for a violation of section 202 of this act for the person and for the government entity. The action may be known as a qui tam action and the person bringing the action as a qui tam relator. The action must be brought in the name of the government entity. The action may be dismissed only if the court, and the attorney general give written consent to the dismissal and their reason for consenting.

(2) A relator filing an action under this chapter must serve a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses on the attorney general in electronic format. The relator must file the complaint in camera. The complaint must remain under seal for at least sixty days, and may not be served on the defendant until the court so orders. The attorney general may elect to intervene and proceed with the action within sixty days after it receives both the complaint and the material evidence and information.

(3) The attorney general may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under subsection (2) of this section. The motions may be supported by affidavits or other submissions in camera. The defendant may not be required to respond to any complaint filed under this section until twenty days after the complaint is unsealed and served upon the defendant.

(4) If the attorney general does not proceed with the action prior to the expiration of the sixty-day period or any extensions obtained under subsection (3) of this section, then the relator has the right to conduct the action.

(5) When a person brings an action under this section, no person other than the attorney general may intervene or bring a related action based on the facts underlying the pending action.

NEW SECTION. **Sec. 206.** (1) If the attorney general proceeds with the qui tam action, the attorney general shall have the primary responsibility for prosecuting the action, and is not bound by an act of the relator. The relator has the right to continue as a party to the action, subject to the limitations set forth in subsection (2) of this section.

(2)(a) The attorney general may move to dismiss the qui tam action notwithstanding the objections of the relator if the relator has been notified by the attorney general of the filing of the motion and the court has provided the relator with an opportunity for a hearing on the motion.

(b) The attorney general may settle the action with the defendant notwithstanding the objections of the relator if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be held in camera.

(c) Upon a showing by the attorney general that unrestricted participation during the course of the litigation by the relator would interfere with or unduly delay the attorney general's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the relator's participation, such as:

(i) Limiting the number of witnesses the relator may call;

(ii) Limiting the length of the testimony of the witnesses;

(iii) Limiting the relator's cross-examination of witnesses; or

(iv) Otherwise limiting the participation by the relator in the litigation.

(d) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the relator would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the relator in the litigation.

(3) If the attorney general elects not to proceed with the qui tam action, the relator has the right to conduct the action. If the attorney general so requests, the relator must serve on the attorney general copies of all pleadings filed in the action and shall supply copies of all deposition transcripts, at the attorney general's expense. When the relator proceeds with the action, the court, without limiting the status and rights of the relator, may nevertheless permit the attorney general to intervene at a later date upon a showing of good cause.

(4) Whether or not the attorney general proceeds with the qui tam action, upon a showing by the attorney general that certain actions of discovery by the relator would interfere with the attorney general's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than sixty days. The showing must be conducted in camera. The court may extend the sixty-day period upon a further showing in camera that the attorney general has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(5) Notwithstanding section 205 of this act, the attorney general may elect to pursue its claim through any alternate remedy available to the state, including any administrative proceeding to determine a civil money penalty. If any alternate remedy is pursued in another proceeding, the relator has the same rights in the proceeding as the relator would have had if the action had continued under this section. Any finding of fact or conclusion of law made in the other proceeding that has become final is conclusive on all parties to an action under this section. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the state of Washington, if all time for filing the appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

NEW SECTION. **Sec. 207.** (1)(a) Subject to (b) of this subsection, if the attorney general proceeds with a qui tam action, the relator must receive at least fifteen percent but not more than twenty-five percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the relator substantially contributed to the prosecution of the action.

(b) Where the action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the relator, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, the court may award an amount it considers appropriate, but in no case more than ten percent of the proceeds, taking into account the significance of the information and the role of the relator in advancing the case to litigation.

(c) Any payment to a relator under (a) or (b) of this subsection must be made from the proceeds. The relator must also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All expenses, fees, and costs must be awarded against the defendant.

(2) If the attorney general does not proceed with a qui tam action, the relator shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount may not be less than twenty-five percent and not more than thirty percent of the proceeds of the action or settlement and must be paid out of the proceeds. The relator must also receive an amount for reasonable expenses, which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All expenses, fees, and costs must be awarded against the defendant.

(3) Whether or not the attorney general proceeds with the qui tam action, if the court finds that the action was brought by a person who planned and initiated the violation of section 202 of this act upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under subsection (1) or (2) of this section, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of section 202 of this act, that person must be dismissed from the civil action and may not receive any share of the proceeds of the action. The dismissal may not prejudice the right of the state to continue the action, represented by the attorney general.

(4) If the attorney general does not proceed with the qui tam action and the relator conducts the action, the court may award to the defendant reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the relator was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(5) Any funds recovered that remain after calculation and distribution under subsections (1) through (3) of this section must be deposited into the medicaid fraud penalty account established in section 103 of this act.

NEW SECTION. **Sec. 208.** (1) In no event may a person bring a qui tam action which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the state is already a party.

(2)(a) The court must dismiss an action or claim under this section, unless opposed by the attorney general, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed:

(i) In a state criminal, civil, or administrative hearing in which the attorney general or other governmental entity is a party;

(ii) In a legislative report, or other state report, hearing, audit, or investigation; or

(iii) By the news media;

unless the action is brought by the attorney general or the relator is an original source of the information.

(b) For purposes of this section, "original source" means an individual who either (i) prior to a public disclosure under (a) of this subsection, has voluntarily

disclosed to the attorney general the information on which allegations or transactions in a claim are based, or (ii) has knowledge that is independent of, and materially adds to, the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the attorney general before filing an action under this section.

NEW SECTION. **Sec. 209.** (1) Any employee, contractor, or agent is entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent, is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action under this chapter or other efforts to stop one or more violations of this chapter.

(2) Relief under subsection (1) of this section must include reinstatement with the same seniority status that employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees, and any and all relief available under RCW 49.60.030(2). An action under this subsection may be brought in the appropriate superior court of the state of Washington for the relief provided in this subsection.

(3) A civil action under this section may not be brought more than three years after the date when the retaliation occurred.

NEW SECTION. **Sec. 210.** (1) A subpoena requiring the attendance of a witness at a trial or hearing conducted under section 204 or 205 of this act may be served at any place in the state of Washington.

(2) A civil action under section 204 or 205 of this act may be brought at any time, without limitation after the date on which the violation of section 202 of this act is committed.

(3) If the attorney general elects to intervene and proceed with a qui tam action, the attorney general may file its own complaint or amend the complaint of a relator to clarify or add detail to the claims in which the attorney general is intervening and to add any additional claims with respect to which the attorney general contends it is entitled to relief.

(4) In any action brought under section 204 or 205 of this act, the attorney general is required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(5) Notwithstanding any other provision of law or the rules for superior court, a final judgment rendered in favor of the government entity in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, estops the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under section 204 or 205 of this act.

NEW SECTION. **Sec. 211.** (1) Any action under section 204 or 205 of this act may be brought in the superior court in any county in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by section 202 of this act occurred. The appropriate court must issue a summons as required by the

superior court civil rules and service must occur at any place within the state of Washington.

(2) The superior courts have jurisdiction over any action brought under the laws of any city or county for the recovery of funds paid by a government entity if the action arises from the same transaction or occurrence as an action brought under section 204 or 205 of this act.

(3) With respect to any local government that is named as a coplaintiff with the state in an action brought under section 205 of this act, a seal on the action ordered by the court under section 205 of this act does not preclude the attorney general or the person bringing the action from serving the complaint, any other pleadings, or the written disclosure of substantially all material evidence and information possessed by the person bringing the action on the law enforcement authorities that are authorized under the law of the local government to investigate and prosecute the action on behalf of the local government, except that the seal applies to the law enforcement authorities so served to the same extent as the seal applies to other parties in the action.

NEW SECTION. **Sec. 212.** (1)(a) Whenever the attorney general, or a designee, for purposes of this section, has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims act investigation, the attorney general, or a designee, may, before commencing a civil proceeding under section 204 of this act or making an election under section 205 of this act, issue in writing and serve upon the person, a civil investigative demand requiring the person:

(i) To produce the documentary material for inspection and copying;

(ii) To answer in writing written interrogatories with respect to the documentary material or information;

(iii) To give oral testimony concerning the documentary material or information; or

(iv) To furnish any combination of such material, answers, or testimony.

(b) The attorney general may delegate the authority to issue civil investigative demands under this subsection (1). Whenever a civil investigative demand is an express demand for any product of discovery, the attorney general, the deputy attorney general, or an assistant attorney general must serve, in any manner authorized by this section, a copy of the demand upon the person from whom the discovery was obtained and must notify the person to whom the demand is issued of the date on which the copy was served. Any information obtained by the attorney general or a designee of the attorney general under this section may be shared with any qui tam relator if the attorney general or designee determines it is necessary as part of any false claims act investigation.

(2)(a) Each civil investigative demand issued under subsection (1) of this section must state the nature of the conduct constituting the alleged violation of this chapter which is under investigation, and the applicable provision of law alleged to be violated.

(b) If the demand is for the production of documentary material, the demand must:

(i) Describe each class of documentary material to be produced with such definiteness and certainty as to permit the material to be fairly identified;

(ii) Prescribe a return date for each class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and

(iii) Identify the false claims act investigator to whom such material must be made available.

(c) If the demand is for answers to written interrogatories, the demand must:

(i) Set forth with specificity the written interrogatories to be answered;

(ii) Prescribe dates at which time answers to written interrogatories must be submitted; and

(iii) Identify the false claims law investigator to whom such answers must be submitted.

(d) If the demand is for the giving of oral testimony, the demand must:

(i) Prescribe a date, time, and place at which oral testimony must be commenced;

(ii) Identify a false claims act investigator who must conduct the examination and the custodian to whom the transcript of the examination must be submitted;

(iii) Specify that the attendance and testimony are necessary to the conduct of the investigation;

(iv) Notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and

(v) Describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

(e) Any civil investigative demand issued under this section which is an express demand for any product of discovery is not due until thirty days after a copy of the demand has been served upon the person from whom the discovery was obtained.

(f) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this section may not be sooner than six days after the date on which demand is received, unless the attorney general or an assistant attorney general designated by the attorney general determines that exceptional circumstances are present which warrant the commencement of the testimony sooner.

(g) The attorney general may not authorize the issuance under this section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the attorney general, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary.

(3) A civil investigative demand issued under subsection (1) or (2) of this section may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if the material, answers, or testimony would be protected from disclosure under:

(a) The standards applicable to subpoenas or subpoenas duces tecum issued by a court to aid in a special inquiry investigation; or

(b) The standards applicable to discovery requests under the superior court civil rules, to the extent that the application of these standards to any demand is appropriate and consistent with the provisions and purposes of this section.

(4) Any demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law, other than this section, preventing or restraining disclosure of the product of discovery to any person. Disclosure of any product of discovery pursuant to any express demand does not constitute a waiver of any right or privilege which the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.

(5) Any civil investigative demand issued under this section may be served by a false claims act investigator, or by a commissioned law enforcement official, at any place within the state of Washington.

(6) Service of any civil investigative demand issued under (a) of this subsection or of any petition filed under subsection (25) of this section may be made upon a partnership, corporation, association, or other legal entity by:

(a) Delivering an executed copy of the demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(b) Delivering an executed copy of the demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or

(c) Depositing an executed copy of the demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(7) Service of any demand or petition may be made upon any natural person by:

(a) Delivering an executed copy of the demand or petition to the person; or

(b) Depositing an executed copy of the demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.

(8) A verified return by the individual serving any civil investigative demand issued under subsection (1) or (2) of this section or any petition filed under subsection (25) of this section setting forth the manner of the service constitutes proof of the service. In the case of service by registered or certified mail, the return must be accompanied by the return post office receipt of delivery of the demand.

(9)(a) The production of documentary material in response to a civil investigative demand served under this section must be made under a sworn certificate, in the form as the demand designates, by:

(i) In the case of a natural person, the person to whom the demand is directed; or

(ii) In the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to the production and authorized to act on behalf of the person.

(b) The certificate must state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom

the demand is directed has been produced and made available to the false claims act investigator identified in the demand.

(10) Any person upon whom any civil investigative demand for the production of documentary material has been served under this section shall make such material available for inspection and copying to the false claims act investigator identified in the demand at the principal place of business of the person, or at another place as the false claims act investigator and the person thereafter may agree and prescribe in writing, or as the court may direct under subsection (25) of this section. The material must be made available on the return date specified in the demand, or on a later date as the false claims act investigator may prescribe in writing. The person may, upon written agreement between the person and the false claims act investigator, substitute copies for originals of all or any part of the material.

(11)(a) Each interrogatory in a civil investigative demand served under this section must be answered separately and fully in writing under oath and must be submitted under a sworn certificate, in the form as the demand designates, by:

(i) In the case of a natural person, the person to whom the demand is directed; or

(ii) In the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.

(b) If any interrogatory is objected to, the reasons for the objection must be stated in the certificate instead of an answer. The certificate must state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information must be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

(12) The examination of any person pursuant to a civil investigative demand for oral testimony served under this section must be taken before an officer authorized to administer oaths and affirmations by the laws of the state of Washington or of the place where the examination is held. The officer before whom the testimony is to be taken must put the witness on oath or affirmation and must, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony must be recorded and must be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection does not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the superior court civil rules.

(13) The false claims act investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney general, any person who may be agreed upon by the attorney for the government and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking the testimony.

(14) The oral testimony of any person taken pursuant to a civil investigative demand served under this section must be taken in the county within which such person resides, is found, or transacts business, or in another place as may be

agreed upon by the false claims act investigator conducting the examination and the person.

(15) When the testimony is fully transcribed, the false claims act investigator or the officer before whom the testimony is taken must afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless the examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make must be entered and identified upon the transcript by the officer or the false claims act investigator, with a statement of the reasons given by the witness for making the changes. The transcript must then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days after being afforded a reasonable opportunity to examine it, the officer or the false claims act investigator must sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons given.

(16) The officer before whom the testimony is taken must certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or false claims act investigator must promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

(17) Upon payment of reasonable charges therefor, the false claims act investigator must furnish a copy of the transcript to the witness only, except that the attorney general, the deputy attorney general, or an assistant attorney general may, for good cause, limit the witness to inspection of the official transcript of the witness' testimony.

(18)(a) Any person compelled to appear for oral testimony under a civil investigative demand issued under subsection (1) or (2) of this section may be accompanied, represented, and advised by counsel. Counsel may advise the person, in confidence, with respect to any question asked of the person. The person or counsel may object on the record to any question, in whole or in part, and must briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that the person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. The person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination. If the person refuses to answer any question, a special injury proceeding petition may be filed in the superior court under subsection (25) of this section for an order compelling the person to answer the question.

(b) If the person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of the person may be compelled in accordance with the provisions of the superior court civil rules.

(19) Any person appearing for oral testimony under a civil investigative demand issued under subsection (1) or (2) of this section is entitled to the same fees and allowances which are paid to witnesses in the superior courts.

(20) The attorney general must designate a false claims act investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and must designate such

additional false claims act investigators as the attorney general determines from time to time to be necessary to serve as deputies to the custodian.

(21)(a) A false claims act investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony under this section must transmit them to the custodian. The custodian shall take physical possession of the material, answers, or transcripts and is responsible for the use made of them and for the return of documentary material under subsection (23) of this section.

(b) The custodian may cause the preparation of the copies of the documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any false claims act investigator, or employee of the attorney general. The material, answers, and transcripts may be used by any authorized false claims act investigator or other officer or employee in connection with the taking of oral testimony under this section.

(c)(i) Except as otherwise provided in this subsection (21), no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, may be available for examination by any individual other than a false claims act investigator or other officer or employee of the attorney general authorized under (b) of this subsection.

(ii) The prohibition in (c)(i) of this subsection on the availability of material, answers, or transcripts does not apply if consent is given by the person who produced the material, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand for the material, consent is given by the person from whom the discovery was obtained. Nothing in this subsection (c)(ii) is intended to prevent disclosure to the legislature, including any committee or subcommittee for use by such an agency in furtherance of its statutory responsibilities.

(d) While in the possession of the custodian and under the reasonable terms and conditions as the attorney general shall prescribe:

(i) Documentary material and answers to interrogatories must be available for examination by the person who produced the material or answers, or by a representative of that person authorized by that person to examine the material and answers; and

(ii) Transcripts of oral testimony must be available for examination by the person who produced the testimony, or by a representative of that person authorized by that person to examine the transcripts.

(22) Whenever any official has been designated to appear before any court, special inquiry judge, or state administrative judge in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this section may deliver to the official the material, answers, or transcripts for official use in connection with any case or proceeding as the official determines to be required. Upon the completion of such a case or proceeding, the official must return to the custodian any material, answers, or transcripts so delivered which have not passed into the control of any court, grand jury, or agency through introduction into the record of such a case or proceeding.

(23) If any documentary material has been produced by any person in the course of any false claims act investigation pursuant to a civil investigative demand under this section, and:

(a) Any case or proceeding before the court or special inquiry judge arising out of the investigation, or any proceeding before any administrative judge involving the material, has been completed; or

(b) No case or proceeding in which the material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of the investigation:

Then, the custodian shall, upon written request of the person who produced the material, return to the person the material, other than copies furnished to the false claims act investigator under subsection (10) of this section or made for the attorney general under subsection (21)(b) of this section, which has not passed into the control of any court, grand jury, or agency through introduction into the record of the case or proceeding.

(24)(a) In the event of the death, disability, or separation from service of the attorney general of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to civil investigative demand under this section, or in the event of the official relief of the custodian from responsibility for the custody and control of the material, answers, or transcripts, the attorney general must promptly:

(i) Designate another false claims act investigator to serve as custodian of the material, answers, or transcripts; and

(ii) Transmit in writing to the person who produced the material, answers, or testimony notice of the identity and address of the successor so designated.

(b) Any person who is designated to be a successor under this subsection (24) has, with regard to the material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor may not be held responsible for any default or dereliction which occurred before that designation.

(25) Whenever any person fails to comply with any civil investigative demand issued under subsection (1) or (2) of this section, or whenever satisfactory copying or reproduction of any material requested in the demand cannot be done and the person refuses to surrender the material, the attorney general may file, in any superior court of the state of Washington for any county in which the person resides, is found, or transacts business, and serve upon the person a petition for an order of the court for the enforcement of the civil investigative demand.

(26)(a) Any person who has received a civil investigative demand issued under subsection (1) or (2) of this section may file, in the superior court of the state of Washington for the county within which the person resides, is found, or transacts business, and serve upon the false claims act investigator identified in the demand a petition for an order of the court to modify or set aside the demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside the demand may be brought only in the district court of the United States for the judicial district in which the proceeding in which the discovery was obtained is or was last pending. Any petition filed under this subsection (26)(a) must be filed:

(i) Within thirty days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier; or

(ii) Within a longer period as may be prescribed in writing by any false claims act investigator identified in the demand.

(b) The petition must specify each ground upon which the petitioner relies in seeking relief under (a) of this subsection, and may be based upon any failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

(27)(a) In the case of any civil investigative demand issued under subsection (1) or (2) of this section which is an express demand for any product of discovery, the person from whom the discovery was obtained may file, in the superior court of the state of Washington for the county in which the proceeding in which the discovery was obtained is or was last pending, and serve upon any false claims act investigator identified in the demand and upon the recipient of the demand, a petition for an order of the court to modify or set aside those portions of the demand requiring production of any product of discovery. Any petition under this subsection (27)(a) must be filed:

(i) Within twenty days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier; or

(ii) Within a longer period as may be prescribed in writing by any false claims act investigator identified in the demand.

(b) The petition must specify each ground upon which the petitioner relies in seeking relief under (a) of this subsection, and may be based upon any failure of the portions of the demand from which relief is sought to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand.

(28) At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any civil investigative demand issued under subsection (1) or (2) of this section, the person, and in the case of an express demand for any product of discovery, the person from whom the discovery was obtained, may file, in the superior court of the state of Washington for the county within which the office of the custodian is situated, and serve upon the custodian, a petition for an order of the court to require the performance by the custodian of any duty imposed upon the custodian by this section.

(29) Whenever any petition is filed in any superior court of the state of Washington under this section, the court has jurisdiction to hear and determine the matter so presented, and to enter an order or orders as may be required to carry out the provisions of this section. Any final order so entered is subject to appeal under the rules of appellate procedure. Any disobedience of any final

order entered under this section by any court must be punished as a contempt of the court.

(30) The superior court civil rules apply to any petition under this section, to the extent that the rules are not inconsistent with the provisions of this section.

(31) Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection (1) or (2) of this section are exempt from disclosure under the public records act, chapter 42.56 RCW.

NEW SECTION. **Sec. 213.** Beginning November 15, 2012, and annually thereafter, the attorney general in consultation with the health care authority must report results of implementing the medicaid fraud false claims act. This report must include:

(1) The number of attorneys assigned to qui tam initiated actions;

(2) The number of cases brought by qui tam actions and indicate how many cases are brought by the attorney general and how many by the qui tam relator without attorney general participation;

(3) The results of any actions brought under subsection (2) of this section, delineated by cases brought by the attorney general and cases brought by the qui tam relator without attorney general participation;

(4) The amount of recoveries attributable to the medicaid false claims; and

(5) Information on the costs, attorneys' fees, and any other expenses incurred by defendants in investigating and defending against qui tam actions, to the extent this information is provided to the attorney general or health care authority.

NEW SECTION. **Sec. 214.** This chapter may be known and cited as the medicaid fraud false claims act.

NEW SECTION. **Sec. 215.** Sections 201 through 214 of this act constitute a new chapter in Title 74 RCW.

NEW SECTION. **Sec. 216.** A new section is added to chapter 43.131 RCW to read as follows:

The medicaid fraud false claims act as established under chapter 74.— RCW (the new chapter created in sections 201 through 214 of this act) shall be terminated on June 30, 2016, as provided in section 217 of this act.

NEW SECTION. **Sec. 217.** A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2017:

(1) Section 201 of this act;
(2) Section 202 of this act;
(3) Section 203 of this act;
(4) Section 204 of this act;
(5) Section 205 of this act;
(6) Section 206 of this act;
(7) Section 207 of this act;
(8) Section 208 of this act;
(9) Section 209 of this act;
(10) Section 210 of this act;
(11) Section 211 of this act;

(12) Section 212 of this act;
(13) Section 213 of this act; and
(14) Section 214 of this act.

***NEW SECTION.** Sec. 218. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.*

***Sec. 218 was vetoed. See message at end of chapter.**

Passed by the Senate March 8, 2012.
Passed by the House March 8, 2012.
Approved by the Governor March 30, 2012, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State March 30, 2012.

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

"I am returning herewith, without my approval as to Section 218, Engrossed Substitute Senate Bill 5978 entitled:

"AN ACT Relating to medicaid fraud."

Engrossed Substitute Senate Bill 5978 creates a new State Medicaid Fraud False Claims Act. The federal Deficit Reduction Act of 2005 provides that the federal government will give to the state ten percent of any funds recovered as part of Medicaid enforcement actions brought under a state law comparable to the federal False Claims Act.

The emergency clause in Section 218 providing for Engrossed Substitute Senate Bill 5978 to take effect immediately is not necessary. The bill will be effective ninety days after the adjournment of the session at which it was enacted, which will be June 7, 2012. There is no need to provide an earlier effective date. The Legislature has not yet provided funding to implement the provisions of this bill; the Health Care Authority and the Attorney General's Office will need time to prepare for implementation; and the State can request federal approval under the Deficit Reduction Act of 2005 in a timely manner without the emergency clause.

For these reasons, I have vetoed Section 218 of Engrossed Substitute Senate Bill 5978.

With the exception of Section 218, Engrossed Substitute Senate Bill 5978 is approved."

CHAPTER 242

[Substitute Senate Bill 5982]

JOINT CENTER FOR AEROSPACE TECHNOLOGY AND INNOVATION

AN ACT Relating to the joint center for aerospace technology innovation; adding new sections to chapter 43.131 RCW; adding a new chapter to Title 28B 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.** (1) The joint center for aerospace technology innovation is created to:

(a) Pursue joint industry-university research in computing, manufacturing efficiency, materials/structures innovation, and other new technologies that can be used in aerospace firms;

(b) Enhance the education of students in the engineering departments of the University of Washington, Washington State University, and other participating institutions through industry-focused research; and

(c) Work directly with existing small, medium-sized, and large aerospace firms and aerospace industry associations to identify research needs and opportunities to transfer off-the-shelf technologies that would benefit such firms.

(2) The center shall be operated and administered as a multi-institutional education and research center, conducting research and development programs in various locations within Washington under the joint authority of the University of Washington and Washington State University. The initial administrative offices of the center shall be west of the crest of the Cascade mountains. In order to meet aerospace industry needs, the facilities and resources of the center must be made available to all four-year institutions of higher education as defined in RCW 28B.10.016. Resources include, but are not limited to, internships, on-the-job training, and research opportunities for undergraduate and graduate students and faculty.

(3) The powers of the center are vested in and shall be exercised by a board of directors. The board shall consist of nine members appointed by the governor. The governor shall appoint a nonvoting chair. Of the eight voting members, one member shall represent small aerospace firms, one member shall represent medium-sized firms, one member shall represent large aerospace firms, one member shall represent labor, two members shall represent aerospace industry associations, and two members shall represent higher education. The terms of the initial members shall be staggered.

(4) The board shall hire an executive director. The executive director shall hire such staff as the board deems necessary to operate the center. Staff support may be provided from among the cooperating institutions through cooperative agreements to the extent funds are available. The executive director may enter into cooperative agreements for programs and research with public and private organizations including state and nonstate agencies consistent with policies of the participating institutions.

(5) The board must:

(a) Work with aerospace industry associations and aerospace firms of all sizes to identify the research areas that will benefit the intermediate and long-term economic vitality of the Washington aerospace industry;

(b) Identify entrepreneurial researchers to join or lead research teams in the research areas specified in (a) of this subsection and the steps the University of Washington and Washington State University will take to recruit such researchers;

(c) Assist firms to integrate existing technologies into their operations and align the activities of the center with those of impact Washington and innovate Washington to enhance services available to aerospace firms;

(d) Develop internships, on-the-job training, research, and other opportunities and ensure that all undergraduate and graduate students enrolled in an aerospace engineering curriculum have direct experience with aerospace firms;

(e) Assist researchers and firms in safeguarding intellectual property while advancing industry innovation;

(f) Develop and strengthen university-industry relationships through promotion of faculty collaboration with industry, and sponsor, in collaboration with innovate Washington, at least one annual symposium focusing on aerospace research in the state of Washington;

(g) Encourage a full range of projects from small research projects that meet the specific needs of a smaller company to large scale, multipartner projects;

(h) Develop nonstate support of the center's research activities through leveraging dollars from federal and private for-profit and nonprofit sources;

(i) Leverage its financial impact through joint support arrangements on a project-by-project basis as appropriate;

(j) Establish mechanisms for soliciting and evaluating proposals and for making awards and reporting on technological progress, financial leverage, and other measures of impact;

(k) By June 30, 2013, develop an operating plan that includes the specific processes, methods, or mechanisms the center will use to accomplish each of its duties as set out in this subsection; and

(l) Report biennially to the legislature and the governor about the impact of the center's work on the state's economy and the aerospace sector, with projections of future impact, providing indicators of its impact, and outlining ideas for enhancing benefits to the state. The report must be coordinated with the governor's office, the Washington economic development commission, the department of commerce, and innovate Washington.

NEW SECTION. **Sec. 2.** The joint center for aerospace technology innovation may solicit and receive gifts, grants, donations, sponsorships, or contributions from any federal, state, or local governmental agency or program or any private source, and expend the same for any purpose consistent with this chapter.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.131 RCW to read as follows:

The joint center for aerospace technology innovation shall be terminated July 1, 2015, as provided in section 4 of this act.

NEW SECTION. **Sec. 4.** 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 July 1, 2016:

(1) Section 1 of this act; and

(2) Section 2 of this act.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2012, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 6.** Sections 1 and 2 of this act constitute a new chapter in Title 28B RCW.

Passed by the Senate March 3, 2012.

Passed by the House March 1, 2012.

Approved by the Governor March 30, 2012.

Filed in Office of Secretary of State March 30, 2012.

CHAPTER 243

[Substitute Senate Bill 5997]

OLYMPIC NATURAL RESOURCES CENTER

AN ACT Relating to the Olympic natural resources center; and amending RCW 43.30.820 and 43.30.810.

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

Sec. 1. RCW 43.30.820 and 2010 1st sp.s. c 7 s 74 are each amended to read as follows:

(1) The Olympic natural resources center shall operate under the authority of the board of regents of the University of Washington. It shall be administered by a director appointed jointly by the ((~~deans~~)) directors of the ((~~college~~)) school of environmental and forest ((~~resources~~)) sciences and the ((~~college~~)) school of ((~~ocean~~)) aquatic and fishery sciences. The director of the center shall be a member of the faculty of one of those ((~~colleges~~)) schools. The director of the center shall appoint and maintain a scientific or technical committee, and other committees as necessary, to advise the director on the efficiency, effectiveness, and quality of the center's activities.

(2) The governor must appoint a policy advisory board consisting of eleven members, who serve at the pleasure of the governor, to advise the directors of the school of environmental and forest sciences, the school of aquatic and fishery sciences, and the Olympic natural resources center on policies for the center that are consistent with its purposes. Membership on the policy advisory board must broadly represent the various interests concerned with the purposes of the center, including the Washington state department of natural resources and state and federal government, environmental, local community, timber industry, and tribal interests. Policy advisory board members shall serve four-year terms and are eligible for reappointment.

(3) Service on boards and committees of the Olympic natural resources center is without compensation but actual travel expenses incurred in connection with service to the center may be reimbursed from appropriated funds in accordance with RCW 43.03.050 and 43.03.060.

Sec. 2. RCW 43.30.810 and 1991 c 316 s 2 are each amended to read as follows:

(1) The Olympic natural resources center is hereby created at the University of Washington in the ((~~college~~)) school of environmental and forest ((~~resources~~)) sciences and the ((~~college~~)) school of ((~~ocean~~)) aquatic and fishery sciences.

(2) The Olympic natural resources center shall maintain facilities and programs in the western portion of the Olympic Peninsula. ((~~Its~~)) The purpose ((~~shall be~~)) of the center is to demonstrate innovative management methods which successfully integrate environmental, energy, marine, and economic interests into pragmatic management of forest and ocean resources. The center shall combine research and educational opportunities with experimental forestry, oceans management, and traditional management knowledge into an overall program which demonstrates that management based on sound economic principles is made superior when combined with new methods of management based on ecological principles. The programs developed by the center shall include the following:

((~~(1)~~)) (a) Research and education on a broad range of ocean resources problems and opportunities in the region, such as estuarine processes, ocean and coastal management, renewable energy production, offshore development, fisheries and shellfish enhancement, and coastal business development, tourism, and recreation. In developing this component of the center's program, the center shall collaborate with coastal educational institutions such as Grays Harbor community college and Peninsula community college;

((~~(2)~~)) (b) Research and education on forest resources management issues on the landscape, ecosystem, or regional level, including issues that cross legal and administrative boundaries;

((~~(3)~~)) (c) Research and education that broadly integrates marine and terrestrial issues, including interactions of marine, aquatic, and terrestrial ecosystems, and that identifies options and opportunities to integrate the production of commodities with the preservation of ecological values. Where appropriate, programs shall address issues and opportunities that cross legal and administrative boundaries;

((~~(4)~~)) (d) Research and education on natural resources and their social and economic implications, and on alternative economic and social bases for sustainable, healthy, resource-based communities;

((~~(5)~~)) (e) Educational opportunities such as workshops, short courses, and continuing education for resource professionals, policy forums, information exchanges including international exchanges where appropriate, conferences, student research, and public education; and

((~~(6)~~)) (f) Creation of a neutral forum where parties with diverse interests are encouraged to address and resolve their conflicts.

Passed by the Senate March 3, 2012.
Passed by the House February 27, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 244

[Substitute Senate Bill 6002]
SCHOOL CONSTRUCTION ASSISTANCE FORMULA

AN ACT Relating to adjustments to the school construction assistance formula; amending RCW 28A.525.162; reenacting and amending RCW 28A.525.166; creating a new section; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** The school construction assistance funding formula is used to determine state funding contributions to school construction projects. It is the intent of the legislature that the formula use the most accurate method available to reflect the actual number of students using districts' school facilities. State funding currently provides all-day kindergarten for over twenty percent of kindergarten students and RCW 28A.150.315 calls for the continued phasing-in of all-day kindergarten each year until full statewide implementation is achieved in the 2017-18 school year. In addition, because alternative learning experience programs of education take place in whole, or in part, outside the regular classroom setting, and because online alternative learning experience programs are delivered primarily electronically using the internet or other

computer-based methods, it is appropriate to consider the impact of alternative learning experience students in assessing school space needs. The legislature acknowledges the review of the formula conducted by the office of the superintendent of public instruction and accepts many recommendations from the resulting December 2011 report. The legislature also intends to provide financial assistance for school districts affected by the transition to the new funding formula. This assistance will be limited to grants to cover direct district expenditures for contracted architects, engineers, and other consultants for projects that are no longer eligible for state assistance under the new formula or for projects requiring significant redesign work as a result of reduced state assistance under the new formula.

Sec. 2. RCW 28A.525.162 and 2009 c 129 s 5 are each amended to read as follows:

(1) Funds appropriated to the superintendent of public instruction from the common school construction fund shall be allotted by the superintendent of public instruction in accordance with ((~~student enrollment and the provisions of RCW 28A.525.200~~)) this chapter.

(2) No allotment shall be made to a school district until such district has provided local funds equal to or greater than the difference between the total approved project cost and the amount of state funding assistance to the district for financing the project computed pursuant to RCW 28A.525.166, with the following exceptions:

(a) The superintendent of public instruction may waive the local requirement for state funding assistance for districts which have provided funds for school building construction purposes through the authorization of bonds or through the authorization of excess tax levies or both in an amount equivalent to two and one-half percent of the value of its taxable property, as defined in RCW 39.36.015.

(b) No such local funds shall be required as a condition to the allotment of funds from the state for the purpose of making major or minor structural changes to existing school facilities in order to bring such facilities into compliance with the barrier free access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act.

(3) For the purpose of computing the state funding assistance percentage under RCW 28A.525.166 when a school district is granted authority to enter into contracts, adjusted valuation per pupil shall be calculated using headcount student enrollments from the most recent October enrollment reports submitted by districts to the superintendent of public instruction, adjusted as follows:

(a) In the case of projects for which local bonds were approved after May 11, 1989:

(i) For districts which have been designated as serving high school districts under RCW 28A.540.110, students residing in the nonhigh district so designating shall be excluded from the enrollment count if the student is enrolled in any grade level not offered by the nonhigh district;

(ii) The enrollment of nonhigh school districts shall be increased by the number of students residing within the district who are enrolled in a serving high school district so designated by the nonhigh school district under RCW 28A.540.110, including only students who are enrolled in grade levels not offered by the nonhigh school district; and

(iii) The number of preschool students with disabilities included in the enrollment count shall be multiplied by one-half;

(b) In the case of construction or modernization of high school facilities in districts serving students from nonhigh school districts, the adjusted valuation per pupil shall be computed using the combined adjusted valuations and enrollments of each district, each weighted by the percentage of the district's resident high school students served by the high school district; ((~~and~~))

(c) The number of kindergarten students included in the enrollment count shall be ((~~multiplied by one-half~~)) counted as one headcount student; and

(d) The number of students residing outside the school district who are enrolled in alternative learning experience programs under RCW 28A.150.325 shall be excluded from the total.

(4) In lieu of the exclusion in subsection (3)(d) of this section, a district may submit an alternative calculation for excluding students enrolled in alternative learning experience programs. The alternative calculation must show the student headcount use of district classroom facilities on a regular basis for a regular duration by out-of-district alternative learning experience program students subtracted by the headcount of in-district alternative learning experience program students not using district classroom facilities on a regular basis for a reasonable duration. The alternative calculation must be submitted in a form approved by the office of the superintendent of public instruction. The office of the superintendent of public instruction must develop rules to define "regular basis" and "reasonable duration."

(5) The superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, shall prescribe such rules as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

(((~~(5)~~))) (6) For the purposes of this section, "preschool students with disabilities" means children of preschool age who have developmental disabilities who are entitled to services under RCW 28A.155.010 through 28A.155.100 and are not included in the kindergarten enrollment count of the district.

Sec. 3. RCW 28A.525.166 and 2009 c 421 s 5 and 2009 c 129 s 6 are each reenacted and amended to read as follows:

Allocations to school districts of state funds provided by RCW 28A.525.162 through 28A.525.180 shall be made by the superintendent of public instruction and the amount of state funding assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the superintendent.

(2) The state funding assistance percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil).

$$\text{Computed State Ratio} = \frac{\text{District adjusted 3-valuation per pupil} \div \text{Total state adjusted valuation per pupil}}{\text{District adjusted 3+valuation per pupil} \div \text{Total state adjusted valuation per pupil}} = - \% \text{ State Funding Assistance}$$

PROVIDED, That in the event the state funding assistance percentage to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state funding assistance under RCW 28A.525.162 through 28A.525.180, the superintendent may establish for such district a state funding assistance percentage not in excess of twenty percent of the approved cost of the project, if the superintendent finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed state funding assistance percentage developed in subsection (2) of this section, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed state funding assistance percentage for each percent of growth, with a maximum of twenty percent.

(4) In computing the state funding assistance percentage in subsection (2) of this section and adjusting the percentage under subsection (3) of this section, students residing outside the school district who are enrolled in alternative learning experience programs under RCW 28A.150.325 shall be excluded from the count of total pupils. In lieu of the exclusion in this subsection, a district may submit an alternative calculation for excluding students enrolled in alternative learning experience programs. The alternative calculation must show the student headcount use of district classroom facilities on a regular basis for a reasonable duration by out-of-district alternative learning experience program students subtracted by the headcount of in-district alternative learning experience program students not using district classroom facilities on a regular basis for a reasonable duration. The alternative calculation must be submitted in a form approved by the office of the superintendent of public instruction. The office of the superintendent of public instruction must develop rules to define "regular basis" and "reasonable duration."

(5) The approved cost of the project determined in the manner prescribed in this section multiplied by the state funding assistance percentage derived as provided for in this section shall be the amount of state funding assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the superintendent: PROVIDED, FURTHER, That additional state funding assistance may be allowed if it is found by the superintendent, considering policy recommendations from the school facilities citizen advisory panel that such assistance is necessary in order

to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden resulting from projects of statewide significance or imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state funding assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state funding assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d), and (e) of this subsection, creating a like emergency.

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

Passed by the Senate February 8, 2012.

Passed by the House March 1, 2012.

Approved by the Governor March 30, 2012.

Filed in Office of Secretary of State March 30, 2012.

CHAPTER 245

[Substitute Senate Bill 6038]

SCHOOL CONSTRUCTION ASSISTANCE—RULES

AN ACT Relating to school construction assistance rules; and adding a new section to chapter 28A.300 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction shall adopt rules in accordance with chapter 34.05 RCW to ensure that a host school district is not penalized for the entirety of a shared or colocated facility when calculations for state school construction assistance are made.

Passed by the Senate February 9, 2012.

Passed by the House February 29, 2012.

Approved by the Governor March 30, 2012.

Filed in Office of Secretary of State March 30, 2012.

CHAPTER 246

[Substitute Senate Bill 6044]

PUBLIC UTILITY DISTRICTS—WATER—PUMPED STORAGE GENERATING FACILITY

AN ACT Relating to the supply of water by public utility districts bordered by the Columbia river to be used in pumped storage projects; and adding a new section to chapter 54.16 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 54.16 RCW to read as follows:

(1) Notwithstanding any other provision of this chapter to the contrary, a qualifying public utility district may supply any water, if authorized by a previously perfected water right under its control, to be used in a pumped storage generating facility to any entity that sells electric energy or water either directly or indirectly to the public.

(2) To qualify for the authority under this section, the public utility district must have satisfied all of the following requirements prior to the effective date of this act:

(a) Border the Columbia river;

(b) Have obtained a water right from an industrial user; and

(c) Hold a water right for which power generation is an authorized purpose.

(3) Water supplied to an entity under this section must be supplied consistent with a contract that contains the terms and conditions deemed appropriate by the commission of the qualifying public utility district. Contracts under this section must be made pursuant to a resolution of the commission that is introduced at a meeting of the commission at least ten days prior to the date of the adoption of the resolution. However, the commission shall first make adequate provision for the needs of the public utility district, both actual and prospective.

Passed by the Senate March 6, 2012.
Passed by the House February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 247

[Senate Bill 6082]

AGRICULTURAL RESOURCE LANDS—PRESERVATION AND CONSERVATION

AN ACT Relating to the preservation and conservation of agricultural resource lands; and adding a new section to chapter 43.21C RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21C RCW to read as follows:

(1) The legislature finds the state's farm and range lands are a unique natural resource that provide for the production of food, fiber, alternative fuels, and other products necessary for the continued welfare of people locally, nationally, and globally. Each year, a significant amount of the state's agricultural land is irrevocably converted from actual or potential agricultural use to nonagricultural use. The continued decrease in the state's agricultural resource land base is threatening the ability of the agricultural industry to produce safe and affordable

agricultural products in sufficient quantities to meet our current and future local, regional, and national food and fiber needs, as well as the demands of our export markets.

(2) The program and project actions of state agencies, local governments, and persons, in many cases, inadvertently result in the conversion of farmland to nonagricultural uses where alternative actions would be preferred. The legislature declares that it is the policy of the state to identify and take into account the adverse effects of these actions on the preservation and conservation of agricultural lands; to consider alternative actions, as appropriate, that could lessen such adverse effects; and to assure that such actions appropriately mitigate for unavoidable impacts to agricultural resources.

(3) By December 31, 2013, the department of ecology shall conduct rule making to review and consider whether the current environmental checklist form in WAC 197-11-960 ensures consideration of potential impacts to agricultural lands of long-term commercial significance, as that term is used in chapter 36.70A RCW. The review and update shall ensure that the checklist is adequate to allow for consideration of impacts on adjacent agricultural properties, drainage patterns, agricultural soils, and normal agricultural operations.

Passed by the Senate March 6, 2012.
Passed by the House March 2, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 248

[Senate Bill 6134]

DEPARTMENT OF FISH AND WILDLIFE—SERVICE CREDIT TRANSFER

AN ACT Relating to allowing department of fish and wildlife enforcement officers to transfer service credit; and amending RCW 41.26.435.

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

Sec. 1. RCW 41.26.435 and 2009 c 157 s 1 are each amended to read as follows:

(1) A member of plan 2 who was a member of the public employees' retirement system plan 2 or plan 3 while employed as an enforcement officer for the department of fish and wildlife has the option to make an election no later than December 31, 2009, filed in writing with the department of retirement systems, to transfer all service credit previously earned as an enforcement officer in the public employees' retirement system plan 2 or plan 3 to the law enforcement officers' and firefighters' retirement system plan 2. Service credit that a member elects to transfer from the public employees' retirement system to the law enforcement officers' and firefighters' retirement system under this section shall be transferred no earlier than June 30, ((~~2014~~)) 2012, and only after the member completes payment as provided in subsection (2) of this section.

(2)(a) A member who elects to transfer service credit under subsection (1) of this section shall make the payments required by this subsection prior to having service credit earned as an enforcement officer with the department of fish and wildlife under the public employees' retirement system plan 2 or plan 3

transferred to the law enforcement officers' and firefighters' retirement system plan 2.

(b) A member who elects to transfer service credit from the public employees' retirement system plan 2 under this subsection shall pay, for the applicable period of service, the difference between the contributions the employee paid to the public employees' retirement system plan 2 and the contributions that would have been paid by the employee had the employee been a member of the law enforcement officers' and firefighters' retirement system plan 2, plus interest on this difference as determined by the director. This payment must be made no later than June 30, 2014, and must be made prior to retirement.

(c) A member who elects to transfer service credit from the public employees' retirement system plan 3 under this subsection shall transfer to the law enforcement officers' and firefighters' retirement system plan 2, for the applicable period of service, the full balance of the member's defined contribution account within plan 3 as of the effective date of the transfer. At no time will the member pay, for the applicable period of service, a sum less than the contributions that would have been paid by the employee had the employee been a member of the law enforcement officers' and firefighters' retirement system plan 2, plus interest as determined by the director. This transfer and any additional payment, if necessary, must be made no later than June 30, 2014, and must be made prior to retirement.

(d) Upon completion of the payment required in (b) of this subsection, the department shall transfer from the public employees' retirement system to the law enforcement officers' and firefighters' retirement system plan 2: (i) All of the employee's applicable accumulated contributions plus interest and all of the applicable employer contributions plus interest; and (ii) all applicable months of service, as defined in RCW 41.26.030((~~(14)~~)) (28)(b), credited to the employee under this chapter for service as an enforcement officer with the department of fish and wildlife as though that service was rendered as a member of the law enforcement officers' and firefighters' retirement system plan 2.

(e) Upon completion of the payment required in (c) of this subsection, the department shall transfer from the public employees' retirement system to the law enforcement officers' and firefighters' retirement system plan 2: (i) All of the employee's applicable accumulated contributions plus interest and all of the applicable employer contributions plus interest; and (ii) all applicable months of service, as defined in RCW 41.26.030((~~(14)~~)) (28)(b), credited to the employee under this chapter for service as an enforcement officer with the department of fish and wildlife as though that service was rendered as a member of the law enforcement officers' and firefighters' retirement system plan 2.

(f) If a member who elected to transfer pursuant to this section dies or retires for disability prior to June 30, ((~~2014~~)) 2012, the member's benefit is calculated as follows:

(i) All of the applicable service credit, accumulated contributions, and interest is transferred to the law enforcement officers' and firefighters' retirement system plan 2 and used in the calculation of a benefit.

(ii) If a member's obligation under (b) or (c) of this subsection has not been paid in full at the time of death or disability retirement, the member, or in the

case of death the surviving spouse or eligible minor children, have the following options:

(A) Pay the bill in full;

(B) If a continuing monthly benefit is chosen, have the benefit actuarially reduced to reflect the amount of the unpaid obligation under (b) or (c) of this subsection; or

(C) Continue to make payment against the obligation under (b) or (c) of this subsection, provided that payment in full is made no later than June 30, 2014.

(g) Upon transfer of service credit, contributions, and interest under this subsection, the employee is permanently excluded from membership in the public employees' retirement system for all service related to time served as an enforcement officer with the department of fish and wildlife under the public employees' retirement system plan 2 or plan 3.

Passed by the Senate March 3, 2012.
Passed by the House March 1, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 249

[Senate Bill 6159]

BUSINESS AND OCCUPATION TAX—DEDUCTION—DISPUTE RESOLUTION SERVICES

AN ACT Relating to a business and occupation tax deduction for amounts received with respect to dispute resolution services; adding a new section to chapter 82.04 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 82.04 RCW to read as follows:

(1) A qualified dispute resolution center may deduct from the measure of tax amounts received as a contribution from federal, state, or local governments and nonprofit organizations for providing dispute resolution services.

(2) A nonprofit organization may deduct from the measure of tax amounts received from federal, state, or local governments for distribution to a qualified dispute resolution center.

(3) A qualified dispute resolution center must:

(a) Be established under chapter 7.75 RCW; and

(b) Provide services either without charge to the participants or for a fee that is based on the participant's ability to pay, as required by RCW 7.75.030.

(4) As used in this section, a "nonprofit organization" has the same meaning as in RCW 82.04.3651(2).

***NEW SECTION.** Sec. 2. This act applies prospectively as well as retroactively.*

***Sec. 2 was vetoed. See message at end of chapter.**

Passed by the Senate March 7, 2012.
Passed by the House March 8, 2012.
Approved by the Governor March 30, 2012, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State March 30, 2012.

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

"I am returning herewith, without my approval as to Section 2, Senate Bill 6159 entitled:

"AN ACT Relating to a business and occupation tax deduction for amounts received with respect to dispute resolution services."

Senate Bill 6159 allows dispute resolution centers to deduct amounts they receive as contributions from federal, state, and local government or nonprofit organizations from the measure of the business and occupation tax. Nonprofit organizations may also deduct from the measure of tax amounts received from federal, state, or local governments for distribution to a qualified dispute resolution center.

Section 2 would apply this deduction from the measure of the tax both prospectively and retroactively. The retroactive application of the bill would reward delinquent taxpayers, while those who paid on time would not receive a refund under the prohibition on the gift of state funds in Article VIII, Section 5 of the Washington Constitution, as interpreted by the Washington Supreme Court.

For this reason, I have vetoed Section 2 of Senate Bill 6159.

With the exception of Section 2, Senate Bill 6159 is approved."

CHAPTER 250

[Substitute Senate Bill 6187]

CLAIMS GOVERNMENTAL HEALTH CARE PROVIDERS

AN ACT Relating to health care claims against state and governmental health care providers arising out of tortious conduct; and amending RCW 4.92.100 and 4.96.020.

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

Sec. 1. RCW 4.92.100 and 2009 c 433 s 2 are each amended to read as follows:

(1) All claims against the state, or against the state's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct, ((~~except for claims involving injuries from health care, shall~~)) must be presented to the risk management division. ((~~Claims involving injuries from health care are governed solely by the procedures set forth in chapter 7.70 RCW and are exempt from this chapter.~~)) A claim is deemed presented when the claim form is delivered in person or by regular mail, registered mail, or certified mail, with return receipt requested, to the risk management division. For claims for damages presented after July 26, 2009, all claims for damages must be presented on the standard tort claim form that is maintained by the risk management division. The standard tort claim form must be posted on the office of financial management's web site.

(a) The standard tort claim form must, at a minimum, require the following information:

(i) The claimant's name, date of birth, and contact information;

(ii) A description of the conduct and the circumstances that brought about the injury or damage;

(iii) A description of the injury or damage;

(iv) A statement of the time and place that the injury or damage occurred;

(v) A listing of the names of all persons involved and contact information, if known;

(vi) A statement of the amount of damages claimed; and

(vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

(b) The standard tort claim form must be signed either:

(i) By the claimant, verifying the claim;

(ii) Pursuant to a written power of attorney, by the attorney in fact for the claimant;

(iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or

(iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) The amount of damages stated on the claim form is not admissible at trial.

(2) The state shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the risk management division. The standard tort claim form must not list the claimant's social security number and must not require information not specified under this section.

(3) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 2. RCW 4.96.020 and 2009 c 433 s 1 are each amended to read as follows:

(1) The provisions of this section apply to claims for damages against all local governmental entities and their officers, employees, or volunteers, acting in such capacity((~~, except that claims involving injuries from health care are governed solely by the procedures set forth in chapter 7.70 RCW and are exempt from this chapter~~)).

(2) The governing body of each local governmental entity shall appoint an agent to receive any claim for damages made under this chapter. The identity of the agent and the address where he or she may be reached during the normal business hours of the local governmental entity are public records and shall be recorded with the auditor of the county in which the entity is located. All claims for damages against a local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, shall be presented to the agent within the applicable period of limitations within which an action must be commenced. A claim is deemed presented when the claim form is delivered in person or is received by the agent by regular mail, registered mail, or certified mail, with return receipt requested, to the agent or other person designated to accept delivery at the agent's office. The failure of a local governmental entity to comply with the requirements of this section precludes that local governmental entity from raising a defense under this chapter.

(3) For claims for damages presented after July 26, 2009, all claims for damages must be presented on the standard tort claim form that is maintained by the risk management division of the office of financial management, except as allowed under (c) of this subsection. The standard tort claim form must be posted on the office of financial management's web site.

(a) The standard tort claim form must, at a minimum, require the following information:

(i) The claimant's name, date of birth, and contact information;

(ii) A description of the conduct and the circumstances that brought about the injury or damage;

(iii) A description of the injury or damage;

(iv) A statement of the time and place that the injury or damage occurred;

(v) A listing of the names of all persons involved and contact information, if known;

(vi) A statement of the amount of damages claimed; and

(vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

(b) The standard tort claim form must be signed either:

(i) By the claimant, verifying the claim;

(ii) Pursuant to a written power of attorney, by the attorney in fact for the claimant;

(iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or

(iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) Local governmental entities shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity. If a local governmental entity chooses to also make available its own tort claim form in lieu of the standard tort claim form, the form:

(i) May require additional information beyond what is specified under this section, but the local governmental entity may not deny a claim because of the claimant's failure to provide that additional information;

(ii) Must not require the claimant's social security number; and

(iii) Must include instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity appointed to receive the claim.

(d) If any claim form provided by the local governmental entity fails to require the information specified in this section, or incorrectly lists the agent with whom the claim is to be filed, the local governmental entity is deemed to have waived any defense related to the failure to provide that specific information or to present the claim to the proper designated agent.

(e) Presenting either the standard tort claim form or the local government tort claim form satisfies the requirements of this chapter.

(f) The amount of damages stated on the claim form is not admissible at trial.

(4) No action subject to the claim filing requirements of this section shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim has first been presented to the agent of the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

(5) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory.

Passed by the Senate February 11, 2012.
Passed by the House February 28, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 251

[Substitute Senate Bill 6226]

SUBSIDIZED CHILD CARE—AUTHORIZATION PERIODS

AN ACT Relating to authorization periods for subsidized child care; amending RCW 43.215.135; adding a new section to chapter 43.215 RCW; and providing an effective date.

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

Sec. 1. RCW 43.215.135 and 2011 1st sp.s. c 42 s 11 are each amended to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures defined in RCW 74.08A.410 and the standards established in this section intended to promote continuity of care for children.

(2) As a condition of receiving a child care subsidy or a working connections child care subsidy, the applicant or recipient must seek child support enforcement services from the department of social and health services, division of child support, unless the department finds that the applicant or recipient has good cause not to cooperate.

(3) ((~~Except as provided in subsection (4) of this section, an applicant or recipient of a child care subsidy or a working connections child care subsidy is eligible to receive that subsidy for six months before having to recertify his or her income eligibility. The six month certification provision applies only if enrollments in the child care subsidy or working connections child care program are capped.~~

~~(4)~~)) Beginning in fiscal year ((~~2011, for families with children enrolled in an early childhood education and assistance program, a head start program, or an early head start program~~)) 2013, authorizations for the working connections child care subsidy shall be effective for twelve months unless a change in circumstances necessitates reauthorization sooner than twelve months. The twelve-month certification applies only if the enrollments in the child care subsidy or working connections child care program are capped.

(((~~(5) The department, in consultation with the department of social and health services, shall report to the legislature by September 1, 2011, with:~~

~~(a) An analysis of the impact of the twelve-month authorization period on the stability of child care, program costs, and administrative savings; and~~

~~(b) Recommendations for expanding the application of the twelve-month authorization period to additional populations of children in care.~~))

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.215 RCW to read as follows:

When an applicant or recipient applies for or receives working connections child care benefits, he or she is required to:

(1) Notify the department of social and health services, within five days, of any change in providers; and

(2) Notify the department of social and health services, within ten days, about any significant change related to the number of child care hours the applicant or recipient needs, cost sharing, or eligibility.

NEW SECTION. **Sec. 3.** This act takes effect July 1, 2012.

Passed by the Senate March 6, 2012.
Passed by the House February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 252

[Second Substitute Senate Bill 6263]

MARINE MANAGEMENT PLANNING

AN ACT Relating to facilitating marine management planning; amending RCW 43.372.020, 43.372.030, 43.372.040, and 43.372.070; adding new sections to chapter 43.143 RCW; and creating a new section.

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

Sec. 1. RCW 43.372.020 and 2010 c 145 s 3 are each amended to read as follows:

(1) The office of the governor shall chair a marine interagency team that is composed of representatives of each of the agencies in the governor's natural resources cabinet with management responsibilities for marine waters, including the independent agencies. A representative from a federal agency with lead responsibility for marine spatial planning must be invited to serve as a liaison to the team to help ensure consistency with federal actions and policy. The team must ((~~conduct the assessment authorized in section 4, chapter 145, Laws of 2010,~~)) assist state agencies under RCW 43.372.030 with the review and coordination of such planning with their existing and ongoing planning((~~,~~)) and conduct the marine management planning authorized in RCW 43.372.040.

(2) The team may not commence any activities authorized under RCW 43.372.030 and 43.372.040 until federal, private, or other ((~~nonstate~~)) funding is secured specifically for these activities.

Sec. 2. RCW 43.372.030 and 2010 c 145 s 5 are each amended to read as follows:

(1) ((~~Concurrently or prior to the assessment and planning activities provided in section 4, chapter 145, Laws of 2010 and RCW 43.372.040, and~~)) Subject to available federal, private, or other ((~~nonstate~~)) funding for this purpose, all state agencies with marine waters planning and management responsibilities are authorized to include marine spatial data and marine spatial planning elements into their existing plans and ongoing planning.

(2) The director of the Puget Sound partnership under the direction of the leadership council created in RCW 90.71.220 must integrate marine spatial

information and planning provisions into the action agenda. The information should be used to address gaps or improve the effectiveness of the spatial planning component of the action agenda, such as in addressing potential new uses such as renewable energy projects.

(3) The governor and the commissioner of public lands, working with appropriate marine management and planning agencies, should work cooperatively with the applicable west coast states, Canadian provinces, and with federal agencies, through existing cooperative entities such as the west coast governor's agreement on ocean health, the coastal and oceans task force, the Pacific coast collaborative, the Puget Sound federal caucus, and the United States and Canada cooperative agreement working group, to explore the benefits of developing joint marine spatial plans or planning frameworks in the shared waters of the Salish Sea, the Columbia river estuary, and in the exclusive economic zone waters. The governor and commissioner may approve the adoption of shared marine spatial plans or planning frameworks where they determine it would further policies of this chapter and chapter 43.143 RCW.

(4) On an ongoing basis, the director of the department of ecology shall work with other state agencies with marine management responsibilities, tribal governments, marine resources committees, local and federal agencies, and marine waters stakeholders to compile marine spatial information and to incorporate this information into ongoing plans. This work may be integrated with the comprehensive marine management plan authorized under RCW 43.372.040 when that planning process is initiated.

(5) All actions taken to implement this section must be consistent with RCW 43.372.060.

Sec. 3. RCW 43.372.040 and 2010 c 145 s 6 are each amended to read as follows:

(1) Upon the receipt of federal, private, or other ((~~nonstate~~)) funding for this purpose, ((~~together with any required match of state funding that may be specifically provided for this purpose,~~)) the marine interagency team shall coordinate the development of a comprehensive marine management plan for the state's marine waters. The marine management plan must include marine spatial planning, as well as recommendations to the appropriate federal agencies regarding the exclusive economic zone waters.

(2) The comprehensive marine management plan may be developed in geographic segments, and may incorporate or be developed as an element of existing marine plans, such as the Puget Sound action agenda. If the team exercises the option to develop the comprehensive marine management plan in geographic segments, it may proceed with development and adoption of marine management plans for these geographic segments on different schedules.

(3) The chair of the team may designate a state agency with marine management responsibilities to take the lead in developing and recommending to the team particular segments or elements of the comprehensive marine management plan.

((~~(2)~~)) (4) The marine management plan must be developed and implemented in a manner that:

(a) Recognizes and respects existing uses and tribal treaty rights;

(b) Promotes protection and restoration of ecosystem processes to a level that will enable long-term sustainable production of ecosystem goods and services;

(c) Addresses potential impacts of climate change and sea level rise upon current and projected marine waters uses and shoreline and coastal impacts;

(d) Fosters and encourages sustainable uses that provide economic opportunity without significant adverse environmental impacts;

(e) Preserves and enhances public access;

(f) Protects and encourages working waterfronts and supports the infrastructure necessary to sustain marine industry, commercial shipping, shellfish aquaculture, and other water-dependent uses;

(g) Fosters public participation in decision making and significant involvement of communities adjacent to the state's marine waters; and

(h) Integrates existing management plans and authorities and makes recommendations for aligning plans to the extent practicable.

((~~(3)~~)) (5) To ensure the effective stewardship of the state's marine waters held in trust for the benefit of the people, the marine management plan must rely upon existing data and resources, but also identify data gaps and, as possible, procure missing data necessary for planning.

((~~(4)~~)) (6) The marine management plan must include but not be limited to:

(a) An ecosystem assessment that analyzes the health and status of Washington marine waters including key social, economic, and ecological characteristics and incorporates the best available scientific information, including relevant marine data. This assessment should seek to identify key threats to plan goals, analyze risk and management scenarios, and develop key ecosystem indicators. In addition, the plan should incorporate existing adaptive management strategies underway by local, state, or federal entities and provide an adaptive management element to incorporate new information and consider revisions to the plan based upon research, monitoring, and evaluation;

(b) Using and relying upon existing plans and processes and additional management measures to guide decisions among uses proposed for specific geographic areas of the state's marine and estuarine waters consistent with applicable state laws and programs that control or address developments in the state's marine waters;

(c) A series of maps that, at a minimum, summarize available data on: The key ecological aspects of the marine ecosystem, including physical and biological characteristics, as well as areas that are environmentally sensitive or contain unique or sensitive species or biological communities that must be conserved and warrant protective measures; human uses of marine waters, particularly areas with high value for fishing, shellfish aquaculture, recreation, and maritime commerce; and appropriate locations with high potential for renewable energy production with minimal potential for conflicts with other existing uses or sensitive environments;

(d) An element that sets forth the state's recommendations to the federal government for use priorities and limitations, siting criteria, and protection of unique and sensitive biota and ocean floor features within the exclusive economic zone waters consistent with the policies and management criteria contained in this chapter and chapter 43.143 RCW;

(e) An implementation strategy describing how the plan's management measures and other provisions will be considered and implemented through existing state and local authorities; and

(f) A framework for coordinating state agency and local government review of proposed renewable energy development uses requiring multiple permits and other approvals that provide for the timely review and action upon renewable energy development proposals while ensuring protection of sensitive resources and minimizing impacts to other existing or projected uses in the area.

((~~(5)~~)) (7) If the director of the department of fish and wildlife determines that a fisheries management element is appropriate for inclusion in the marine management plan, this element may include the incorporation of existing management plans and procedures and standards for consideration in adopting and revising fisheries management plans in cooperation with the appropriate federal agencies and tribal governments.

((~~(6)~~)) (8) Any provision of the marine management plan that does not have as its primary purpose the management of commercial or recreational fishing but that has an impact on this fishing must minimize the negative impacts on the fishing. The team must accord substantial weight to recommendations from the director of the department of fish and wildlife for plan revisions to minimize the negative impacts.

((~~(7)~~)) (9) The marine management plan must recognize and value existing uses. All actions taken to implement this section must be consistent with RCW 43.372.060.

((~~(8)~~)) (10) The marine management plan must identify any provisions of existing management plans that are substantially inconsistent with the plan.

((~~(9)~~)) (11)(a) In developing the marine management plan, the team shall implement a strong public participation strategy that seeks input from throughout the state and particularly from communities adjacent to marine waters. Public review and comment must be sought and incorporated with regard to planning the scope of work as well as in regard to significant drafts of the plan and plan elements.

(b) The team must engage tribes and marine resources committees in its activities throughout the planning process. In particular, prior to finalizing the plan, the team must provide each tribe and marine resources committee with a draft of the plan and invite them to review and comment on the plan.

((~~(10) The team must complete the plan within twenty four months of the initiation of planning under this section.~~

~~(11)~~)) (12) The director of the department of ecology shall submit the completed marine management plan to the appropriate federal agency for its review and approval for incorporation into the state's federally approved coastal zone management program.

((~~(12)~~)) (13) Subsequent to the adoption of the marine management plan, the team may periodically review and adopt revisions to the plan to incorporate new information and to recognize and incorporate provisions in other marine management plans. The team must afford the public an opportunity to review and comment upon significant proposed revisions to the marine management plan.

Sec. 4. RCW 43.372.070 and 2011 c 250 s 2 are each amended to read as follows:

(1) The marine resources stewardship trust account is created in the state treasury. All receipts from income derived from the investment of amounts credited to the account, any grants, gifts, or donations to the state for the purposes of marine management planning, marine spatial planning, data compilation, research, or monitoring, and any appropriations made to the account must be deposited in the account. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may only be used for the purposes of marine management planning, marine spatial planning, research, monitoring, and implementation of the marine management plan((~~, and for the restoration or enhancement of marine habitat or resources~~)).

(3) ((~~When moneys are deposited into the marine resources stewardship trust account, the governor must provide recommendations on expenditures from the account to the appropriate committees of the legislature prior to the next regular legislative session. The recommended projects and activities must be consistent with:~~

~~(a) The allowable uses of the marine resources stewardship trust account; and~~

~~(b) The priority areas identified in~~)) Until July 1, 2016, expenditures from the account may only be used for the purposes of:

(a) Conducting ecosystem assessment and mapping activities in marine waters consistent with RCW 43.372.040(6) (a) and (c), with a focus on assessment and mapping activities related to marine resource uses and developing potential economic opportunities;

(b) Developing a marine management plan for the state's coastal waters as that term is defined in RCW 43.143.020; and

(c) Coordination under the west coast governors' agreement on ocean health, entered into on September 18, 2006, ((~~and recognized in section 1, chapter 250, Laws of 2011~~)) and other regional planning efforts consistent with RCW 43.372.030.

***NEW SECTION.** Sec. 5. A new section is added to chapter 43.143 RCW to read as follows:*

(1)(a) The Washington state coastal solutions council is established in the executive office of the governor to fulfill the duties established in section 6 of this act. The council is composed of the following nonvoting members:

(i) The governor or the governor's designee;

(ii) The director or commissioner, or the director's or commissioner's designee, of the following agencies:

(A) The department of ecology;

(B) The department of natural resources;

(C) The department of fish and wildlife;

(D) The state parks and recreation commission; and

(E) The department of commerce.

(b) The following members of the coastal advisory body on ocean policy formed by the department of ecology in December 2011 are the initial voting members of the council:

(i) A citizen from a coastal community;

(ii) Two representatives from commercial fishing associations;

(iii) A representative from a coastal conservation group;

(iv) A representative from a coastal economic development group;

(v) A representative from an educational institution;

(vi) A person representing recreation;

(vii) A representative from a recreational fishing organization;

(viii) A person representing shellfish aquaculture;

(ix) A representative from the shipping industry;

(x) A representative from a science organization; and

(xi) A representative from each outer coast marine resources committee, to be selected by the marine resources committee.

(c) The council must adopt bylaws addressing future membership of the council as well as how vacancies in the membership will be filled.

(d) The council must adopt bylaws addressing future membership of the coastal advisory body on ocean policy as well as how vacancies in the membership will be filled.

(2) The council may invite state, tribal, local governments, and federal agencies with responsibility for the study and management of ocean resources or regulation of ocean activities to designate a liaison to the council to attend council meetings, respond to council requests for technical and policy information, and review any draft materials prepared by the council. The council may also invite representatives from other coastal states or Canadian provinces to participate when appropriate as nonvoting members.

(3) A voting member identified under subsection (1)(b) of this section must serve as the chair of the council. The term of the chair is one year. The initial chair of the council must be nominated and elected by a majority of voting councilmembers at the first meeting of the council. The chair's term begins on the effective date of this section. At the expiration of each chair's term, the next chair must be nominated and elected by a majority of voting councilmembers. The agenda for each meeting must be developed as a collaborative process by voting and nonvoting members.

(4) The council shall utilize a consensus approach to decision making among voting and nonvoting members. The council may put a decision to a vote among voting members only, in the event that consensus cannot be reached. The council must include in its bylaws guidelines describing how consensus works and when a lack of consensus among councilmembers will trigger a vote by voting members only.

(5) If nonstate funding is secured, the council may hire a neutral convener to assist it in the performance of its duties, including but not limited to establishing bylaws and setting meeting agenda.

(6) The department of ecology shall provide administrative and staff support for the council.

(7) The council must meet at least twice each year.

(8) A majority of the voting members of the council constitutes a quorum for the transaction of business.

(9) The term of office of each member appointed by the governor, or the governing body of a county, is four years. Members are eligible for reappointment.

Sec. 5 was vetoed. See message at end of chapter.

**<u>NEW SECTION.</u> Sec. 6. A new section is added to chapter 43.143 RCW to read as follows:*

The duties of the Washington state coastal solutions council created in section 5 of this act are to:

(1) Serve as a forum for communication in order to seek consistency in state, local, and tribal policies concerning coastal waters issues, including issues relating to resource management, fisheries, shellfish aquaculture, marine and coastal hazards, ocean energy, and coastal waters research and education issues;

(2) Serve as a point of contact for, and collaborate with, the federal government, regional entities, and other state governments, regarding coastal waters issues;

(3) Provide a forum to discuss coastal waters resource policy, planning, and management issues, and, when appropriate, mediate disagreements;

(4) Serve as an interagency resource to respond to issues facing coastal communities and coastal waters resources in a collaborative manner;

(5) Identify and pursue public and private funding opportunities for the programs and activities of the council, and for relevant programs and activities of member entities;

(6) Provide policy recommendations to the governor, the legislature, and state and local agencies on specific coastal waters resource management issues including:

(a) Principles and standards required for emerging new coastal uses;

(b) Data gaps and opportunities for scientific research addressing coastal needs and concerns;

(c) Implementation of Washington's ocean action plan 2006;

(d) Development and implementation of coast-wide goals and strategies including marine spatial planning; and

(e) A coastal perspective regarding cross-boundary coastal issues;

(7) Establish bylaws based on existing documents of the coastal advisory body on ocean policy referred to under section 5(1)(b) of this act.

***Sec. 6 was vetoed. See message at end of chapter.**

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, 2012, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 3, 2012.
Passed by the House March 1, 2012.
Approved by the Governor March 30, 2012, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State March 30, 2012.

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

"I am returning herewith, without my approval as to Sections 5 and 6, Second Substitute Senate Bill 6263 entitled:

"AN ACT Relating to facilitating marine management planning."

Sections 5 and 6 of the bill would establish the membership and duties of a new Washington State Coastal Solutions Council. Among other duties, this Council would provide a forum to seek consistency in state, local, and tribal policies concerning coastal waters issues; engage other governments on behalf of the state; and provide policy recommendations to the governor, the Legislature, and state and local agencies on specific coastal waters resource management issues.

It is unclear how the Council would exercise these substantial duties in relation to the agencies with jurisdiction, which could participate only as nonvoting members. While the Council would be located within the Governor's Office, the Council would determine its own membership and be an autonomous body. As we look to regain our strength in the post-recession economy, now is not the time to be creating new state commissions. I remain committed to an efficient, lean government that will better serve the citizens of this state.

I fully agree with the legislative intent to directly engage our coastal communities and give them a stronger voice in shaping their future. To that purpose, I will assign a representative from my office to actively participate in the existing Coastal Advisory Board convened by the Department of Ecology.

For these reasons, I have vetoed Sections 5 and 6 of Second Substitute Senate Bill 6263.

With the exception of Sections 5 and 6, Second Substitute Senate Bill 6263 is approved."

CHAPTER 253

[Substitute Senate Bill 6386]

PUBLIC ASSISTANCE—FRAUD

AN ACT Relating to fraud in state assistance programs; amending RCW 74.08.580, 74.04.014, and 43.215.135; adding a new section to chapter 74.08 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** The legislature finds that fraud associated with public assistance programs is a significant problem in the state of Washington. Therefore, the legislature encourages the office of fraud and accountability within the department of social and health services to coordinate with the office of the state auditor and the department of early learning to improve the prevention, detection, and prosecution of fraudulent activity taking place in public assistance programs. It is the purpose of this act to significantly reduce fraud and to ensure that public assistance dollars reach the intended populations in need.

Sec. 2. RCW 74.08.580 and 2011 1st sp.s. c 42 s 14 are each amended to read as follows:

(1) Any person receiving public assistance is prohibited from using electronic benefit cards or cash obtained with electronic benefit cards:

(a) For the purpose of participating in any of the activities authorized under chapter 9.46 RCW;

(b) For the purpose of parimutuel wagering authorized under chapter 67.16 RCW;

(c) To purchase lottery tickets or shares authorized under chapter 67.70 RCW;

(d) For the purpose of participating in or purchasing any activities located in a tattoo, body piercing, or body art shop licensed under chapter 18.300 RCW;

(e) To purchase cigarettes as defined in RCW 82.24.010 or tobacco products as defined in RCW 82.26.010;

(f) To purchase any items regulated under Title 66 RCW; or

(g) For the purpose of purchasing or participating in any activities in any location listed in subsection (2) of this section.

(2) On or before January 1, 2012, the businesses listed in this subsection must disable the ability of ATM and point-of-sale machines located on their

business premises to accept the electronic benefit card. The following businesses are required to comply with this mandate:

(a) Taverns licensed under RCW 66.24.330;

(b) Beer/wine specialty stores licensed under RCW 66.24.371;

(c) Nightclubs licensed under RCW 66.24.600;

(d) Contract liquor stores defined under RCW 66.04.010;

(e) Bail bond agencies regulated under chapter 18.185 RCW;

(f) Gambling establishments licensed under chapter 9.46 RCW;

(g) Tattoo, body piercing, or body art shops regulated under chapter 18.300 RCW;

(h) Adult entertainment venues with performances that contain erotic material where minors under the age of eighteen are prohibited under RCW 9.68A.150; and

(i) Any establishments where persons under the age of eighteen are not permitted.

(3) The department must notify the licensing authority of any business listed in subsection (2) of this section that such business has continued to allow the use of the electronic benefit card in violation of subsection (2) of this section.

(4) Only the recipient, an eligible member of the household, or the recipient's authorized representative may use an electronic benefit card or the benefit and such use shall only be for the respective benefit program purposes. Unless a recipient's family member is an eligible member of the household, the recipient's authorized representative, an alternative cardholder, or has been assigned as a protective payee, no family member may use the benefit card. The recipient shall not sell, or attempt to sell, exchange, or donate an electronic benefit card or any benefits to any other person or entity.

(5) The first violation of subsection (1) ((~~or (4)~~)) of this section by a recipient constitutes a class 4 civil infraction under RCW 7.80.120. Second and subsequent violations of subsection (1) ((~~or (4)~~)) of this section constitute a class 3 civil infraction under RCW 7.80.120.

(a) The department shall notify, in writing, all recipients of electronic benefit cards that any violation of subsection (1) ((~~or (4)~~)) of this section could result in legal proceedings and forfeiture of all cash public assistance.

(b) Whenever the department receives notice that a person has violated subsection (1) ((~~or (4)~~)) of this section, the department shall notify the person in writing that the violation could result in legal proceedings and forfeiture of all cash public assistance.

(c) The department shall assign a protective payee to the person receiving public assistance who violates subsection (1) ((~~or (4)~~)) of this section two or more times.

(6) In assigning a personal identification number to an electronic benefit card, the department shall not routinely use any sequence of numbers that appear on the card except in circumstances resulting from in-state or national disasters. Personal identification numbers assigned to electronic benefit cards issued to support the distribution of benefits when there is a disaster may include a sequence of numbers that appears on the card.

NEW SECTION. **Sec. 3.** A new section is added to chapter 74.08 RCW to read as follows:

A person who has in his or her possession or under his or her control electronic benefit cards issued in the names of two or more persons and who is not authorized by those persons to have any of the cards in his or her possession is guilty of a misdemeanor.

Sec. 4. RCW 74.04.014 and 2011 1st sp.s. c 42 s 24 are each amended to read as follows:

(1) In carrying out the provisions of this chapter, the office of fraud and accountability shall have prompt access to all individuals, records, electronic data, reports, audits, reviews, documents, and other materials available to the department of revenue, department of labor and industries, department of early learning, employment security department, department of licensing, and any other government entity that can be used to help facilitate investigations of fraud or abuse as determined necessary by the director of the office of fraud and accountability.

(2) The investigator shall have access to all original child care records maintained by licensed and unlicensed child care providers with the consent of the provider or with a court order or valid search warrant.

(3) Information gathered by the department, the office, or the fraud ombudsman shall be safeguarded and remain confidential as required by applicable state or federal law. Whenever information or assistance requested under subsection (1) or (2) of this section is, in the judgment of the director, unreasonably refused or not provided, the director of the office of fraud and accountability must report the circumstances to the secretary immediately.

Sec. 5. RCW 43.215.135 and 2011 1st sp.s. c 42 s 11 are each amended to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures defined in RCW 74.08A.410 and the standards established in this section intended to promote continuity of care for children.

(2) ((~~As a condition of receiving a child care subsidy or a working connections child care subsidy, the applicant or recipient must seek child support enforcement services from the department of social and health services, division of child support, unless the department finds that the applicant or recipient has good cause not to cooperate.~~

~~(3)~~)) Except as provided in subsection ((~~(4)~~)) (3) of this section, an applicant or recipient of a child care subsidy or a working connections child care subsidy is eligible to receive that subsidy for six months before having to recertify his or her income eligibility. The six-month certification provision applies only if enrollments in the child care subsidy or working connections child care program are capped.

((~~(4)~~)) (3) Beginning in fiscal year 2011, for families with children enrolled in an early childhood education and assistance program, a head start program, or an early head start program, authorizations for the working connections child care subsidy shall be effective for twelve months unless a change in circumstances necessitates reauthorization sooner than twelve months.

((~~(5)~~)) (4) The department, in consultation with the department of social and health services, shall report to the legislature by September 1, 2011, with:

(a) An analysis of the impact of the twelve-month authorization period on the stability of child care, program costs, and administrative savings; and

(b) Recommendations for expanding the application of the twelve-month authorization period to additional populations of children in care.

Passed by the Senate March 6, 2012.
Passed by the House March 2, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 254

[Substitute Senate Bill 6414]

ELECTRIC GENERATION PROJECT OR CONSERVATION RESOURCE—REVIEW PROCESS

AN ACT Relating to creating a review process to determine whether a proposed electric generation project or conservation resource qualifies to meet a target under RCW 19.285.040; and adding a new section to chapter 19.285 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 19.285 RCW to read as follows:

(1) When requested by a consumer-owned qualifying utility or by a person proposing an electric generation project or conservation resource, the department is authorized to and shall provide analysis and an advisory opinion on whether a proposed electric generation project or conservation resource qualifies to meet a target under RCW 19.285.040. The advisory opinion must include a legal analysis. When forming its advisory opinion, the department must: (a) Consider, and may rely on, previous opinions issued by the I-937 technical working group established by the commission and the department; and (b) solicit and consider comments from interested parties, including staff of the requesting utility. The department must give priority to any application regarding an electric generation project or conservation resource that previously received an affirmative advisory opinion from the I-937 technical working group.

(2) Consumer-owned qualifying utilities and persons proposing electric generation projects or conservation resources may apply for an advisory opinion from the department. The application must be in writing and must include information that accurately describes the proposed project or resource. Within ninety days of receiving an application, the director of the department must issue a signed advisory opinion on whether the proposed project or resource qualifies to meet a target under RCW 19.285.040. The governing board of the consumer-owned utility that will use the resource or project must either adopt or reject the advisory opinion after public notice and hearing. Under its responsibilities in RCW 19.285.060, the auditor shall consider any project or resource reviewed and adopted under the process in this section as being in compliance with RCW 19.285.040 and 19.285.060, but only if: (a) The advisory opinion affirmatively qualifies the project or resource; (b) the governing board of the consumer-owned utility that will use the project or resource adopts the advisory opinion after

public notice and hearing; and (c) the project or resource is built or acquired as proposed.

(3) The department may require an applicant to pay an application fee to cover the cost of reviewing the project and preparing an advisory opinion.

(4) An electric generation project reviewed and adopted under this section may produce renewable energy credits as defined in RCW 19.285.030.

(5) The department may adopt rules to implement this section.

(6) Nothing in this section preempts the authority of any governing board of a consumer-owned utility from making a determination, independent of the process in this section, on whether a proposed electric generation project or conservation resource may qualify to meet a target under RCW 19.285.040.

Passed by the Senate March 3, 2012.
Passed by the House February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 255

[Engrossed Substitute Senate Bill 6486]

COLLECTIVE BARGAINING—STATE UNIVERSITIES—POSTDOCTORAL RESEARCHERS

AN ACT Relating to collective bargaining for postdoctoral researchers at certain state universities; adding a new section to chapter 41.56 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 41.56 RCW to read as follows:

In addition to the entities listed in RCW 41.56.020, this chapter applies to postdoctoral and clinical employees as excluded in chapter 41.76 RCW at the University of Washington and at Washington State University.

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, 2012, in the omnibus appropriations act, this act is null and void.

***Sec. 2 was vetoed. See message at end of chapter.**

Passed by the Senate March 6, 2012.
Passed by the House February 29, 2012.
Approved by the Governor March 30, 2012, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State March 30, 2012.

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

"I am returning herewith, without my approval as to Section 2, Engrossed Substitute Senate Bill 6486 entitled:

"AN ACT Relating to collective bargaining for postdoctoral researchers at certain state universities."

Section 2 provides this act is null and void if specific funding is not provided in the omnibus appropriations act. A veto of this section is necessary to ensure collective bargaining rights for postdoctoral and clinical employees at the University of Washington and Washington State University. Further, if specific funding is not provided in the omnibus appropriations act, the administrative costs associated with the collective bargaining can be paid within existing funds or

allocated to the funds that support the employees, many of which are not within the State General Fund.

For this reason, I have vetoed Section 2 of Engrossed Substitute Senate Bill 6486.

With the exception of Section 2, Engrossed Substitute Senate Bill 6486 is approved."

CHAPTER 256

[Substitute Senate Bill 6492]

COMPETENCY TO STAND TRIAL

AN ACT Relating to improving timeliness, efficiency, and accountability of forensic resource utilization associated with competency to stand trial; amending RCW 10.77.060, 10.77.065, 10.77.084, 10.77.086, and 71.05.310; adding new sections to chapter 10.77 RCW; adding a new section to chapter 70.48 RCW; creating new sections; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** The purpose of this act is to sustainably improve the timeliness of services related to competency to stand trial by setting performance expectations, establishing new mechanisms for accountability, and enacting reforms to ensure that forensic resources are expended in an efficient and clinically appropriate manner without diminishing the quality of competency services, and to reduce the time defendants with mental illness spend in jail awaiting evaluation and restoration of competency.

NEW SECTION. **Sec. 2.** A new section is added to chapter 10.77 RCW to read as follows:

(1)(a) The legislature establishes the following performance targets for the timeliness of the completion of accurate and reliable evaluations of competency to stand trial and admissions for inpatient services related to competency to proceed or stand trial for adult criminal defendants. The legislature recognizes that these targets may not be achievable in all cases without compromise to quality of evaluation services, but intends for the department to manage, allocate, and request appropriations for resources in order to meet these targets whenever possible without sacrificing the accuracy of competency evaluations, and to otherwise make sustainable improvements and track performance related to the timeliness of competency services:

(i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized treatment or evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetent to proceed or stand trial, seven days or less;

(ii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody, seven days or less;

(iii) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation, twenty-one days or less.

(b) The time periods measured in these performance targets shall run from the date on which the state hospital receives the court referral and charging documents, discovery, and criminal history information related to the defendant. The targets in (a)(i) and (ii) of this subsection shall be phased in over a six-

month period from the effective date of this section. The target in (a)(iii) of this subsection shall be phased in over a twelve-month period from the effective date of this section.

(c) The legislature recognizes the following nonexclusive list of circumstances that may place achievement of targets for completion of competency services described in (a) of this subsection out of the department's reach in an individual case without aspersion to the efforts of the department:

(i) Despite a timely request, the department has not received necessary medical clearance information regarding the current medical status of a defendant in pretrial custody for the purposes of admission to a state hospital;

(ii) The individual circumstances of the defendant make accurate completion of an evaluation of competency to proceed or stand trial dependent upon review of medical history information which is in the custody of a third party and cannot be immediately obtained by the department. Completion of a competency evaluation shall not be postponed for procurement of medical history information which is merely supplementary to the competency determination;

(iii) Completion of the referral is frustrated by lack of availability or participation by counsel, jail or court personnel, interpreters, or the defendant; or

(iv) An unusual spike in the receipt of evaluation referrals or in the number of defendants requiring restoration services has occurred, causing temporary delays until the unexpected excess demand for competency services can be resolved.

(2) The department shall:

(a) Develop, document, and implement procedures to monitor the clinical status of defendants admitted to a state hospital for competency services that allow the state hospital to accomplish early discharge for defendants for whom clinical objectives have been achieved or may be achieved before expiration of the commitment period;

(b) Investigate the extent to which patients admitted to a state hospital under this chapter overstay time periods authorized by law and take reasonable steps to limit the time of commitment to authorized periods; and

(c) Establish written standards for the productivity of forensic evaluators and utilize these standards to internally review the performance of forensic evaluators.

(3) Following any quarter in which a state hospital has failed to meet one or more of the performance targets in subsection (1) of this section after full implementation of the performance target, the department shall report to the executive and the legislature the extent of this deviation and describe any corrective action being taken to improve performance. This report must be made publicly available. An average may be used to determine timeliness under this subsection.

(4) Beginning December 1, 2013, the department shall report annually to the legislature and the executive on the timeliness of services related to competency to proceed or stand trial and the timeliness with which court referrals accompanied by charging documents, discovery, and criminal history information are provided to the department relative to the signature date of the court order. The report must be in a form that is accessible to the public and that breaks down performance by county.

(5) This section does not create any new entitlement or cause of action related to the timeliness of competency evaluations or admission for inpatient services related to competency to proceed or stand trial, nor can it form the basis for contempt sanctions under chapter 7.21 RCW or a motion to dismiss criminal charges.

Sec. 3. RCW 10.77.060 and 2004 c 9 s 1 are each amended to read as follows:

(1)(a) Whenever a defendant has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate ((~~at least two~~)) a qualified expert((~~s~~)) or professional person((~~s~~)), ((~~one of whom~~)) who shall be approved by the prosecuting attorney, to ((~~examine~~)) evaluate and report upon the mental condition of the defendant.

(b) The signed order of the court shall serve as authority for the ((~~experts~~)) evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. ((~~At least one of the experts or professional persons appointed shall be a developmental disabilities professional~~)) If the court is advised by any party that the defendant may ((~~be developmentally disabled~~)) have a developmental disability, the evaluation must be performed by a developmental disabilities professional. ((~~Upon agreement of the parties, the court may designate one expert or professional person to conduct the examination and report on the mental condition of the defendant. For purposes of the examination, the court may order~~))

(c) The evaluator shall assess the defendant in a jail, detention facility, in the community, or in court to determine whether a period of inpatient commitment will be necessary to complete an accurate evaluation. If inpatient commitment is needed, the signed order of the court shall serve as authority for the evaluator to request the jail or detention facility to transport the defendant ((~~committed~~)) to a hospital or ((~~other suitably~~)) secure ((~~public or private~~)) mental health facility for a period of ((~~time necessary to complete the examination, but~~)) commitment not to exceed fifteen days from the time of admission to the facility. Otherwise, the evaluator shall complete the evaluation.

(d) The court may commit the defendant for evaluation to a hospital or secure mental health facility without an assessment if: (i) The defendant is charged with murder in the first or second degree; (ii) the court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation; or (iii) the court finds that an evaluation outside the jail setting is necessary for the health, safety, or welfare of the defendant. The court shall not order an initial inpatient evaluation for any purpose other than a competency evaluation. ((~~If the defendant is being held in jail or other detention facility, upon agreement of the parties, the court may direct that the examination be conducted at the jail or other detention facility.~~

~~(b)~~)) (e) The order shall indicate whether, in the event the defendant is committed to a hospital or secure mental health facility for evaluation, all parties agree to waive the presence of the defendant or to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant

remains incompetent and there is no remaining restoration period, and the hearing is held prior to the expiration of the authorized commitment period.

(f) When a defendant is ordered to be committed for inpatient ((~~examination~~)) evaluation under this subsection (1), the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the ((~~expert or professional persons~~)) evaluator regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the ((~~examination~~)) evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the ((~~examination~~)) evaluation shall include the following:

(a) A description of the nature of the ((~~examination~~)) evaluation;

(b) A diagnosis or description of the current mental ((~~condition~~)) status of the defendant;

(c) If the defendant suffers from a mental disease or defect, or ((~~is developmentally disabled~~)) has a developmental disability, an opinion as to competency;

(d) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the alleged offense, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, provided that no opinion shall be rendered under this subsection (3)(d) unless the evaluator or court determines that the defendant is competent to stand trial;

(e) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant should be evaluated by a ((~~county~~)) designated mental health professional under chapter 71.05 RCW((~~, and an opinion as to whether the defendant is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts~~

~~jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions~~)).

(4) The secretary may execute such agreements as appropriate and necessary to implement this section and may choose to designate more than one evaluator.

Sec. 4. RCW 10.77.065 and 2008 c 213 s 1 are each amended to read as follows:

(1)(a)(i) The ((~~facility~~)) expert conducting the evaluation shall provide ((~~its~~)) his or her report and recommendation to the court in which the criminal proceeding is pending. For a competency evaluation of a defendant who is released from custody, if the evaluation cannot be completed within twenty-one days due to a lack of cooperation by the defendant, the evaluator shall notify the court that he or she is unable to complete the evaluation because of such lack of cooperation.

(ii) A copy of the report and recommendation shall be provided to the designated mental health professional, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under (a)(((~~ii~~))) (iv) of this subsection. Upon request, the ((~~facility~~)) evaluator shall also provide copies of any source documents relevant to the evaluation to the designated mental health professional. ((~~The report and recommendation shall be provided not less than twenty-four hours preceding the transfer of the defendant to the correctional facility in the county in which the criminal proceeding is pending.~~

~~(ii)~~)) (iii) Any facility providing inpatient services related to competency shall discharge the defendant as soon as the facility determines that the defendant is competent to stand trial. Discharge shall not be postponed during the writing and distribution of the evaluation report. Distribution of an evaluation report by a facility providing inpatient services shall ordinarily be accomplished within two working days or less following the final evaluation of the defendant. If the defendant is discharged to the custody of a local correctional facility, the local correctional facility must continue the medication regimen prescribed by the facility, when clinically appropriate, unless the defendant refuses to cooperate with medication.

(iv) If there is no professional person at the local correctional facility, the local correctional facility shall designate a professional person as defined in RCW 71.05.020 or, in cooperation with the regional support network, a professional person at the regional support network to receive the report and recommendation.

(((~~(iii) When a defendant is transferred to the facility conducting the evaluation, or~~)) (v) Upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator ((~~or the facility conducting the evaluation~~)) of the name of the professional person, or person designated under (a)(((~~ii~~))) (iv) of this subsection, to receive the report and recommendation.

(b) If the ((~~facility~~)) evaluator concludes, under RCW 10.77.060(3)(f), the person should be ((~~kept under further control, an evaluation shall be conducted of such person~~)) evaluated by a designated mental health professional under chapter 71.05 RCW((~~.~~)), the court shall order ((~~an~~)) such evaluation be

conducted ((~~by the appropriate designated mental health professional: (i)~~)) prior to release from confinement ((~~for such person who is convicted, if sentenced to confinement for twenty-four months or less; (ii) for any person who is acquitted; or (iii) for any person: (A) Whose charges are dismissed pursuant to RCW 10.77.086(4); or (B) whose nonfelony charges are dismissed~~)) when the person is acquitted or convicted and sentenced to confinement for twenty-four months or less, or when charges are dismissed pursuant to a finding of incompetent to stand trial.

(2) The designated mental health professional shall provide written notification within twenty-four hours of the results of the determination whether to commence proceedings under chapter 71.05 RCW. The notification shall be provided to the persons identified in subsection (1)(a) of this section.

(3) The prosecuting attorney shall provide a copy of the results of any proceedings commenced by the designated mental health professional under subsection (2) of this section to the ((~~facility conducting the evaluation under this chapter~~)) secretary.

(4) The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services under this chapter may also be disclosed to the courts solely to prevent the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

Sec. 5. RCW 10.77.084 and 2007 c 375 s 3 are each amended to read as follows:

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report as provided in RCW 10.77.060, a defendant is incompetent, the court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section.

(b) ((~~A defendant found incompetent shall be evaluated at the direction of the secretary and a determination made whether the defendant is an individual with a developmental disability. Such evaluation and determination shall be accomplished as soon as possible following the court's placement of the defendant in the custody of the secretary.~~

~~(i) When appropriate, and subject to available funds, if the defendant is determined to be an individual with a developmental disability, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant shall have the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. A copy of the evaluation shall be sent to the program.~~

~~(A) The program shall be separate from programs serving persons involved in any other treatment or habilitation program.~~

~~(B) The program shall be appropriately secure under the circumstances and shall be administered by developmental disabilities professionals who shall direct the habilitation efforts.~~

~~(C) The program shall provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety.~~

~~(ii) The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services.~~

~~(iii) The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.~~

~~(c)~~)) At the end of the mental health treatment and restoration period, if any, or at any time a professional person determines competency has been, or is unlikely to be, restored, the defendant shall be returned to court for a hearing. The parties may agree to waive the defendant's presence or to remote participation by the defendant at a hearing or presentation of an agreed order if the recommendation of the evaluator is for the continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to expiration of the defendant's authorized period of commitment, in which case the department shall promptly notify the court and parties of the date of the defendant's admission and expiration of commitment so that a timely hearing date may be scheduled. If, after notice and hearing, competency has been restored, the stay entered under (a) of this subsection shall be lifted. If competency has not been restored, the proceedings shall be dismissed without prejudice. If the court concludes that competency has not been restored, but that further treatment within the time limits established by RCW 10.77.086 or 10.77.088 is likely to restore competency, the court may order that treatment for purposes of competency restoration be continued. Such treatment may not extend beyond the combination of time provided for in RCW 10.77.086 or 10.77.088.

(((~~(d)~~))) (c) If at any time during the proceeding the court finds, following notice and hearing, a defendant is not likely to regain competency, the proceedings shall be dismissed without prejudice and the defendant shall be evaluated for civil commitment proceedings.

(2) If the defendant is referred ((~~to the~~)) for evaluation by a designated mental health professional ((~~for consideration of initial detention proceedings under chapter 71.05 RCW pursuant to~~)) under this chapter, the designated mental health professional shall provide prompt written notification of the results of the ((~~determination whether to commence initial detention proceedings under chapter 71.05 RCW~~)) evaluation and whether the person was detained. The notification shall be provided to the court in which the criminal action was pending, the prosecutor, the defense attorney in the criminal action, and the facility that evaluated the defendant for competency.

(3) The fact that the defendant is unfit to proceed does not preclude any pretrial proceedings which do not require the personal participation of the defendant.

(4) A defendant receiving medication for either physical or mental problems shall not be prohibited from standing trial, if the medication either enables the defendant to understand the proceedings against him or her and to assist in his or her own defense, or does not disable him or her from so understanding and assisting in his or her own defense.

(5) At or before the conclusion of any commitment period provided for by this section, the facility providing evaluation and treatment shall provide to the court a written report of ((~~examination~~)) evaluation which meets the

requirements of RCW 10.77.060(3). For defendants charged with a felony, the report following the second competency restoration period or first competency restoration period if the defendant's incompetence is determined to be solely due to a developmental disability or the evaluator concludes that the defendant is not likely to regain competency must include an assessment of the defendant's future dangerousness which is evidence-based regarding predictive validity.

Sec. 6. RCW 10.77.086 and 2007 c 375 s 4 are each amended to read as follows:

(1)(a) If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, or has been determined unlikely to regain competency pursuant to RCW 10.77.084(1)((~~(c)~~)) (b), but in any event for a period of no longer than ninety days, the court:

((~~(a)~~)) (i) Shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment; or

((~~(b)~~)) (ii) May alternatively order the defendant to undergo evaluation and treatment at some other facility as determined by the department, or under the guidance and control of a professional person.

(b) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial period of commitment for competency restoration is forty-five days.

(2) On or before expiration of the initial ((~~ninety-day~~)) period of commitment under subsection (1) of this section the court shall conduct a hearing, at which it shall determine whether or not the defendant is incompetent.

(3) If the court finds by a preponderance of the evidence that a defendant charged with a felony is incompetent, the court shall have the option of extending the order of commitment or alternative treatment for an additional ((~~ninety-day~~)) period of ninety days, but the court must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second ((~~ninety-day~~)) restoration period. The defendant, the defendant's attorney, or the prosecutor has the right to demand that the hearing be before a jury. No extension shall be ordered for a second ((~~ninety-day~~)) or third restoration period((~~, nor for any subsequent period~~)) as provided in subsection (4) of this section((~~,~~)) if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension.

(4) For persons charged with a felony, at the hearing upon the expiration of the second ((~~ninety-day~~)) restoration period or at the end of the first ((~~ninety-day~~)) restoration period, in the case of a defendant with a developmental disability, if the jury or court finds that the defendant is incompetent, the charges shall be dismissed without prejudice, and ((~~either civil commitment proceedings shall be instituted or~~)) the court shall either order the release of the defendant or order the defendant be committed to a hospital or secure mental health facility for up to seventy-two hours starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil

commitment petition. The criminal charges shall not be dismissed if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months.

NEW SECTION. **Sec. 7.** A new section is added to chapter 10.77 RCW to read as follows:

(1) A defendant found incompetent by the court under RCW 10.77.084 must be evaluated at the direction of the secretary and a determination made whether the defendant is an individual with a developmental disability. Such evaluation and determination must be accomplished as soon as possible following the court's placement of the defendant in the custody of the secretary.

(2) When appropriate, and subject to available funds, if the defendant is determined to be an individual with a developmental disability, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant has the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. A copy of the evaluation must be sent to the program.

(a) The program must be separate from programs serving persons involved in any other treatment or habilitation program.

(b) The program must be appropriately secure under the circumstances and must be administered by developmental disabilities professionals who shall direct the habilitation efforts.

(c) The program must provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety.

(3) The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services.

(4) The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.

Sec. 8. RCW 71.05.310 and 2005 c 504 s 709 are each amended to read as follows:

The court shall conduct a hearing on the petition for ninety-day treatment within five judicial days of the first court appearance after the probable cause hearing, or within ten judicial days for a petition filed under RCW 71.05.280(3). The court may continue the hearing for good cause upon the written request of the person named in the petition or the person's attorney((,)). The court may continue for good cause ((~~shown, which continuance shall not exceed five additional judicial days~~)) the hearing on a petition filed under RCW 71.05.280(3) upon written request by the person named in the petition, the person's attorney, or the petitioner. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the first court appearance after the probable cause hearing. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The

person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).

During the proceeding, the person named in the petition shall continue to be treated until released by order of the superior court. If no order has been made within thirty days after the filing of the petition, not including extensions of time requested by the detained person or his or her attorney, or the petitioner in the case of a petition filed under RCW 71.05.280(3), the detained person shall be released.

NEW SECTION. **Sec. 9.** The joint legislative audit and review committee shall make an independent assessment of the performance of the state hospitals with respect to provisions specified in section 2 of this act, but shall not be required to independently evaluate the exercise of clinical judgment. A report shall be made to the legislature reflecting the committee's findings and recommendations both six and eighteen months following the effective date of this section. The department of social and health services shall cooperate in a timely manner with requests for data and assistance related to this assessment.

NEW SECTION. **Sec. 10.** The Washington state institute for public policy shall study and report to the legislature the benefit of standardizing protocols used for treatment to restore competency to stand trial in Washington and during what clinically appropriate time period said treatment may be expected to be effective. The department of social and health services shall cooperate in a timely manner with data requests in service of this study.

NEW SECTION. **Sec. 11.** A new section is added to chapter 70.48 RCW to read as follows:

A jail may not refuse to book a patient of a state hospital solely based on the patient's status as a state hospital patient, but may consider other relevant factors that apply to the individual circumstances in each case.

NEW SECTION. **Sec. 12.** A new section is added to chapter 10.77 RCW to read as follows:

(1) A state hospital may administer antipsychotic medication without consent to an individual who is committed under this chapter as criminally insane by following the same procedures applicable to the administration of antipsychotic medication without consent to a civilly committed patient under RCW 71.05.217, except for the following:

(a) The maximum period during which the court may authorize the administration of medication without consent under a single involuntary medication petition shall be the time remaining on the individual's current order of commitment or one hundred eighty days, whichever is shorter; and

(b) A petition for involuntary medication may be filed in either the superior court of the county that ordered the commitment or the superior court of the county in which the individual is receiving treatment, provided that a copy of any order that is entered must be provided to the superior court of the county that ordered the commitment following the hearing. The superior court of the county of commitment shall retain exclusive jurisdiction over all hearings concerning the release of the patient.

(2) The state has a compelling interest in providing antipsychotic medication to a patient who has been committed as criminally insane when

refusal of antipsychotic medication would result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication that is in the best interest of the patient.

NEW SECTION. **Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 14.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect May 1, 2012.

Passed by the Senate March 8, 2012.
Passed by the House March 8, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 257

[Substitute Senate Bill 6493]

SEXUALLY VIOLENT PREDATOR CIVIL COMMITMENT CASES

AN ACT Relating to sexually violent predator civil commitment cases; amending RCW 2.70.020, 71.09.040, 71.09.050, 71.09.080, 71.09.090, 71.09.110, 71.09.120, and 71.09.140; adding a new section to chapter 2.70 RCW; adding new sections to chapter 71.09 RCW; creating new sections; and providing an effective date.

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

Sec. 1. RCW 2.70.020 and 2008 c 313 s 4 are each amended to read as follows:

The director shall:

(1) Administer all state-funded services in the following program areas:

(a) Trial court criminal indigent defense, as provided in chapter 10.101 RCW;

(b) Appellate indigent defense, as provided in this chapter;

(c) Representation of indigent parents qualified for appointed counsel in dependency and termination cases, as provided in RCW 13.34.090 and 13.34.092;

(d) Extraordinary criminal justice cost petitions, as provided in RCW 43.330.190;

(e) Compilation of copies of DNA test requests by persons convicted of felonies, as provided in RCW 10.73.170;

(f) Representation of indigent respondents qualified for appointed counsel in sexually violent predator civil commitment cases, as provided in chapter 71.09 RCW;

(2) Submit a biennial budget for all costs related to the office's program areas;

(3) Establish administrative procedures, standards, and guidelines for the office's program areas, including cost-efficient systems that provide for authorized recovery of costs;

(4) Provide oversight and technical assistance to ensure the effective and efficient delivery of services in the office's program areas;

(5) Recommend criteria and standards for determining and verifying indigency. In recommending criteria for determining indigency, the director shall compile and review the indigency standards used by other state agencies and shall periodically submit the compilation and report to the legislature on the appropriateness and consistency of such standards;

(6) Collect information regarding indigent defense services funded by the state and report annually to the advisory committee, the legislature, and the supreme court;

(7) Coordinate with the supreme court and the judges of each division of the court of appeals to determine how appellate attorney services should be provided.

The office of public defense shall not provide direct representation of clients.

NEW SECTION. **Sec. 2.** A new section is added to chapter 2.70 RCW to read as follows:

In providing indigent defense services for sexually violent predator civil commitment cases under chapter 71.09 RCW, the director shall:

(1) In accordance with state contracting laws, contract with persons admitted to practice law in this state and organizations employing persons admitted to practice law in this state for the provision of legal services to indigent persons;

(2) Establish annual contract fees for defense legal services within amounts appropriated based on court rules and court orders;

(3) Ensure an indigent person qualified for appointed counsel has one contracted counsel appointed to assist him or her. Upon a showing of good cause, the court may order additional counsel;

(4) Consistent with court rules and court orders, establish procedures for the reimbursement of expert witness and other professional and investigative costs;

(5) Review and analyze existing caseload standards and make recommendations for updating caseload standards as appropriate;

(6) Annually, with the first report due December 1, 2013, submit a report to the chief justice of the supreme court, the governor, and the legislature, with all pertinent data on the operation of indigent defense services for commitment proceedings under this section, including:

(a) Recommended levels of appropriation to maintain adequate indigent defense services to the extent constitutionally required;

(b) The time to trial for all commitment trial proceedings including a list of the number of continuances granted, the party that requested the continuance, the county where the proceeding is being heard, and, if available, the reason the continuance was granted;

(c) Recommendations for policy changes, including changes in statutes and changes in court rules, which may be appropriate for the improvement of sexually violent predator civil commitment proceedings.

NEW SECTION. **Sec. 3.** (1) All powers, duties, and functions of the department of social and health services and the special commitment center pertaining to indigent defense under chapter 71.09 RCW are transferred to the office of public defense.

(2)(a) The office of public defense may request any written materials in the possession of the department of social and health services and the special commitment center pertaining to the powers, functions, and duties transferred, which shall be delivered to the custody of the office of public defense. Materials may be transferred electronically and/or in hard copy, as agreed by the agencies. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the office of public defense.

(b) Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties transferred shall, on July 1, 2012, be transferred and credited to the office of public defense.

(3) Notwithstanding the effective date of this section, if implementation of office of public defense contracts would result in the substitution of counsel within one hundred eighty days of a scheduled trial date, the director of the office of public defense may continue defense services with existing counsel to facilitate continuity of effective representation and avoid further continuance of a trial. When existing counsel is maintained, payment to complete the trial shall be prorated based on standard contract fees established by the office of public defense under section 2 of this act and, at the director's discretion, may include extraordinary compensation based on attorney documentation.

Sec. 4. RCW 71.09.040 and 2009 c 409 s 4 are each amended to read as follows:

(1) Upon the filing of a petition under RCW 71.09.030, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such determination is made the judge shall direct that the person be taken into custody and notify the office of public defense of the potential need for representation.

(2) Within seventy-two hours after a person is taken into custody pursuant to subsection (1) of this section, the court shall provide the person with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as to whether the person is a sexually violent predator. In order to assist the person at the hearing, within twenty-four hours of service of the petition, the prosecuting agency shall provide to the person or his or her counsel a copy of all materials provided to the prosecuting agency by the referring agency pursuant to RCW 71.09.025, or obtained by the prosecuting agency pursuant to RCW 71.09.025(1) (c) and (d). At this hearing, the court shall (a) verify the person's identity, and (b) determine whether probable cause exists to believe that the person is a sexually violent predator. At the probable cause hearing, the state may rely upon the petition and certification for determination of probable cause filed pursuant to RCW 71.09.030. The state may supplement this with additional documentary evidence or live testimony. The person may be held in total confinement at the county jail until the trial court renders a decision after the conclusion of the seventy-two hour probable cause hearing. The county shall be entitled to reimbursement for the cost of housing and transporting the person pursuant to rules adopted by the secretary.

(3) At the probable cause hearing, the person shall have the following rights in addition to the rights previously specified: (a) To be represented by counsel, and if the person is indigent as defined in RCW 10.101.010, to have office of public defense contracted counsel appointed as provided in RCW 10.101.020; (b) to present evidence on his or her behalf; (c) to cross-examine witnesses who

testify against him or her; (d) to view and copy all petitions and reports in the court file. The court must permit a witness called by either party to testify by telephone. Because this is a special proceeding, discovery pursuant to the civil rules shall not occur until after the hearing has been held and the court has issued its decision.

(4) If the probable cause determination is made, the judge shall direct that the person be transferred to ((~~an appropriate facility for an evaluation as to whether the person is a sexually violent predator. The evaluation shall be conducted by a person deemed to be professionally qualified to conduct such an examination pursuant to rules developed by the department of social and health services. In adopting such rules, the department of social and health services shall consult with the department of health and the department of corrections~~)) the custody of the department of social and health services for placement in a total confinement facility operated by the department. In no event shall the person be released from confinement prior to trial. ((~~A witness called by either party shall be permitted to testify by telephone.~~))

Sec. 5. RCW 71.09.050 and 2010 1st sp.s. c 28 s 1 are each amended to read as follows:

(1) Within forty-five days after the completion of any hearing held pursuant to RCW 71.09.040, the court shall conduct a trial to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. ((~~The department is responsible for the cost of one expert or professional person to conduct an evaluation on the prosecuting agency's behalf.~~)) The prosecuting agency shall have a right to a current evaluation of the person by experts chosen by the state. The judge may require the person to complete any or all of the following procedures or tests if requested by the evaluator: (a) A clinical interview; (b) psychological testing; (c) plethysmograph testing; and (d) polygraph testing. The judge may order the person to complete any other procedures and tests relevant to the evaluation. The state is responsible for the costs of the evaluation. At all stages of the proceedings under this chapter, any person subject to this chapter shall be entitled to the assistance of counsel, and if the person is indigent as defined in RCW 10.101.010, the court, as provided in RCW 10.101.020, shall appoint office of public defense contracted counsel to assist him or her. The person shall be confined in a secure facility for the duration of the trial.

(2) Whenever any indigent person is subjected to an evaluation under this chapter, the ((~~department~~)) office of public defense is responsible for the cost of one expert or professional person to conduct an evaluation on the person's behalf. When the person wishes to be evaluated by a qualified expert or professional person of his or her own choice, the expert or professional person must be permitted to have reasonable access to the person for the purpose of such evaluation, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an evaluation or participate in the trial on the person's behalf. Nothing in this chapter precludes the person from paying for additional expert services at his or her own expense.

(3) The person, the prosecuting agency, or the judge shall have the right to demand that the trial be before a twelve-person jury. If no demand is made, the trial shall be before the court.

Sec. 6. RCW 71.09.080 and 2010 c 218 s 2 are each amended to read as follows:

(1) Any person subjected to restricted liberty as a sexually violent predator pursuant to this chapter shall not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided in this chapter, or as otherwise authorized by law.

(2)(a) Any person committed or detained pursuant to this chapter shall be prohibited from possessing or accessing a personal computer if the resident's individualized treatment plan states that access to a computer is harmful to bringing about a positive response to a specific and certain phase or course of treatment.

(b) A person who is prohibited from possessing or accessing a personal computer under (a) of this subsection shall be permitted to access a limited functioning personal computer capable of word processing and limited data storage on the computer only that does not have: (i) Internet access capability; (ii) an optical drive, external drive, universal serial bus port, or similar drive capability; or (iii) the capability to display photographs, images, videos, or motion pictures, or similar display capability from any drive or port capability listed under (b)(ii) of this subsection.

(3) Any person committed pursuant to this chapter has the right to adequate care and individualized treatment. The department of social and health services shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations made pursuant to this chapter. All such records and reports shall be made available upon request only to: The committed person, his or her attorney, the prosecuting ((~~attorney~~)) agency, the court, the protection and advocacy agency, or another expert or professional person who, upon proper showing, demonstrates a need for access to such records.

(4) At the time a person is taken into custody or transferred into a facility pursuant to a petition under this chapter, the professional person in charge of such facility or his or her designee shall take reasonable precautions to inventory and safeguard the personal property of the persons detained or transferred. A copy of the inventory, signed by the staff member making it, shall be given to the person detained and shall, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained person. For purposes of this subsection, "responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult brother or sister of the person. The facility shall not disclose the contents of the inventory to any other person without consent of the patient or order of the court.

(5) Nothing in this chapter prohibits a person presently committed from exercising a right presently available to him or her for the purpose of obtaining release from confinement, including the right to petition for a writ of habeas corpus.

(6) No indigent person may be conditionally released or unconditionally discharged under this chapter without suitable clothing, and the secretary shall furnish the person with such sum of money as is required by RCW 72.02.100 for

persons without ample funds who are released from correctional institutions. As funds are available, the secretary may provide payment to the indigent persons conditionally released pursuant to this chapter consistent with the optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules to do so.

(7) If a civil commitment petition is dismissed, or a trier of fact determines that a person does not meet civil commitment criteria, the person shall be released within twenty-four hours of service of the release order on the superintendent of the special commitment center, or later by agreement of the person who is the subject of the petition.

Sec. 7. RCW 71.09.090 and 2011 2nd sp.s. c 7 s 2 are each amended to read as follows:

(1) If the secretary determines that the person's condition has so changed that either: (a) The person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, the secretary shall authorize the person to petition the court for conditional release to a less restrictive alternative or unconditional discharge. The petition shall be filed with the court and served upon the prosecuting agency responsible for the initial commitment. The court, upon receipt of the petition for conditional release to a less restrictive alternative or unconditional discharge, shall within forty-five days order a hearing.

(2)(a) Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for conditional release to a less restrictive alternative or unconditional discharge without the secretary's approval. The secretary shall provide the committed person with an annual written notice of the person's right to petition the court for conditional release to a less restrictive alternative or unconditional discharge over the secretary's objection. The notice shall contain a waiver of rights. The secretary shall file the notice and waiver form and the annual report with the court. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether probable cause exists to warrant a hearing on whether the person's condition has so changed that: (i) He or she no longer meets the definition of a sexually violent predator; or (ii) conditional release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community.

(b) The committed person shall have a right to have an attorney represent him or her at the show cause hearing, which may be conducted solely on the basis of affidavits or declarations, but the person is not entitled to be present at the show cause hearing. At the show cause hearing, the prosecuting ((~~attorney or attorney general~~)) agency shall present prima facie evidence establishing that the committed person continues to meet the definition of a sexually violent predator and that a less restrictive alternative is not in the best interest of the person and conditions cannot be imposed that adequately protect the community. In making this showing, the state may rely exclusively upon the annual report prepared pursuant to RCW 71.09.070. The committed person may present responsive affidavits or declarations to which the state may reply.

(c) If the court at the show cause hearing determines that either: (i) The state has failed to present prima facie evidence that the committed person continues to meet the definition of a sexually violent predator and that no

proposed less restrictive alternative is in the best interest of the person and conditions cannot be imposed that would adequately protect the community; or (ii) probable cause exists to believe that the person's condition has so changed that: (A) The person no longer meets the definition of a sexually violent predator; or (B) release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community, then the court shall set a hearing on either or both issues.

(d) If the court has not previously considered the issue of release to a less restrictive alternative, either through a trial on the merits or through the procedures set forth in RCW 71.09.094(1), the court shall consider whether release to a less restrictive alternative would be in the best interests of the person and conditions can be imposed that would adequately protect the community, without considering whether the person's condition has changed. The court may not find probable cause for a trial addressing less restrictive alternatives unless a proposed less restrictive alternative placement meeting the conditions of RCW 71.09.092 is presented to the court at the show cause hearing.

(3)(a) At the hearing resulting from subsection (1) or (2) of this section, the committed person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The prosecuting agency shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. ((~~The department is responsible for the cost of one expert or professional person to conduct an evaluation on the prosecuting agency's behalf.~~)) The prosecuting agency shall have a right to a current evaluation of the person by experts chosen by the state. The judge may require the person to complete any or all of the following procedures or tests if requested by the evaluator: (i) A clinical interview; (ii) psychological testing; (iii) plethysmograph testing; and (iv) polygraph testing. The judge may order the person to complete any other procedures and tests relevant to the evaluation. The state is responsible for the costs of the evaluation. The committed person shall also have the right to a jury trial and the right to have experts evaluate him or her on his or her behalf and the court shall appoint an expert if the person is indigent and requests an appointment.

(b) Whenever any indigent person is subjected to an evaluation under (a) of this subsection, the ((~~department~~)) office of public defense is responsible for the cost of one expert or professional person conducting an evaluation on the person's behalf. When the person wishes to be evaluated by a qualified expert or professional person of his or her own choice, such expert or professional person must be permitted to have reasonable access to the person for the purpose of such evaluation, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an evaluation or participate in the hearing on the person's behalf. Nothing in this chapter precludes the person from paying for additional expert services at his or her own expense.

(c) If the issue at the hearing is whether the person should be unconditionally discharged, the burden of proof shall be upon the state to prove beyond a reasonable doubt that the committed person's condition remains such that the person continues to meet the definition of a sexually violent predator.

Evidence of the prior commitment trial and disposition is admissible. The recommitment proceeding shall otherwise proceed as set forth in RCW 71.09.050 and 71.09.060.

(d) If the issue at the hearing is whether the person should be conditionally released to a less restrictive alternative, the burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that conditional release to any proposed less restrictive alternative either: (i) Is not in the best interest of the committed person; or (ii) does not include conditions that would adequately protect the community. Evidence of the prior commitment trial and disposition is admissible.

(4)(a) Probable cause exists to believe that a person's condition has "so changed," under subsection (2) of this section, only when evidence exists, since the person's last commitment trial, or less restrictive alternative revocation proceeding, of a substantial change in the person's physical or mental condition such that the person either no longer meets the definition of a sexually violent predator or that a conditional release to a less restrictive alternative is in the person's best interest and conditions can be imposed to adequately protect the community.

(b) A new trial proceeding under subsection (3) of this section may be ordered, or a trial proceeding may be held, only when there is current evidence from a licensed professional of one of the following and the evidence presents a change in condition since the person's last commitment trial proceeding:

(i) An identified physiological change to the person, such as paralysis, stroke, or dementia, that renders the committed person unable to commit a sexually violent act and this change is permanent; or

(ii) A change in the person's mental condition brought about through positive response to continuing participation in treatment which indicates that the person meets the standard for conditional release to a less restrictive alternative or that the person would be safe to be at large if unconditionally released from commitment.

(c) For purposes of this section, a change in a single demographic factor, without more, does not establish probable cause for a new trial proceeding under subsection (3) of this section. As used in this section, a single demographic factor includes, but is not limited to, a change in the chronological age, marital status, or gender of the committed person.

(5) The jurisdiction of the court over a person civilly committed pursuant to this chapter continues until such time as the person is unconditionally discharged.

(6) During any period of confinement pursuant to a criminal conviction, or for any period of detention awaiting trial on criminal charges, this section is suspended.

NEW SECTION. **Sec. 8.** A new section is added to chapter 71.09 RCW to read as follows:

The following activities, unless provided as part of investigation and preparation for any hearing or trial under this chapter, are beyond the scope of representation of an attorney under contract with the office of public defense pursuant to chapter 2.70 RCW for the purposes of providing indigent defense services in sexually violent predator civil commitment proceedings:

(1) Investigation or legal representation challenging the conditions of confinement at the special commitment center or any secure community transition facility;

(2) Investigation or legal representation for making requests under the public records act, chapter 42.56 RCW;

(3) Legal representation or advice regarding filing a grievance with the department as part of its grievance policy or procedure;

(4) Such other activities as may be excluded by policy or contract with the office of public defense.

NEW SECTION. **Sec. 9.** A new section is added to chapter 71.09 RCW to read as follows:

(1) The office of public defense is responsible for the cost of one expert or professional person conducting an evaluation on an indigent person's behalf as provided in RCW 71.09.050, 71.09.070, or 71.09.090.

(2) Expert evaluations are capped at ten thousand dollars, to include all professional fees, travel, per diem, and other costs. Partial evaluations are capped at five thousand five hundred dollars and expert services apart from an evaluation, exclusive of testimony at trial or depositions, are capped at six thousand dollars.

(3) The office of public defense will pay for the costs related to the evaluation of an indigent person by an additional examiner or in excess of the stated fee caps only upon a finding by the superior court that such appointment or extraordinary fees are for good cause.

Sec. 10. RCW 71.09.110 and 2010 1st sp.s. c 28 s 3 are each amended to read as follows:

The department of social and health services shall be responsible for ((~~all~~)) the costs relating to the ((~~evaluation and~~)) treatment of persons committed to their custody whether in a secure facility or under a less restrictive alternative ((~~under any provision of~~)) as provided in this chapter. ((~~The secretary shall adopt rules to contain costs relating to reimbursement for evaluation services.~~)) Reimbursement may be obtained by the department for the cost of care and treatment of persons committed to its custody whether in a secure facility or under a less restrictive alternative pursuant to RCW 43.20B.330 through 43.20B.370.

Sec. 11. RCW 71.09.120 and 1990 c 3 s 1012 are each amended to read as follows:

(1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public, concerning a specific sexually violent predator committed under this chapter.

(2) The department and the courts are authorized to release to the office of public defense records needed to implement the office's administration of public defense in these cases, including research, reports, and other functions as required by RCW 2.70.020 and section 2 of this act. The office of public defense shall maintain the confidentiality of all confidential information included in the records.

(3) The inspection or copying of any nonexempt public record by persons residing in a civil commitment facility for sexually violent predators may be

enjoined following procedures identified in RCW 42.56.565. The injunction may be requested by:

(a) An agency or its representative;

(b) A person named in the record or his or her representative;

(c) A person to whom the request specifically pertains or his or her representative.

Sec. 12. RCW 71.09.140 and 1995 c 216 s 17 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than thirty days before conditional release or unconditional discharge, except in the event of escape, the department of social and health services shall send written notice of conditional release, unconditional discharge, or escape, to the following:

(a) The chief of police of the city, if any, in which the person will reside or in which placement will be made under a less restrictive alternative;

(b) The sheriff of the county in which the person will reside or in which placement will be made under a less restrictive alternative; and

(c) The sheriff of the county where the person was last convicted of a sexually violent offense, if the department does not know where the person will reside.

The department shall notify the state patrol of the release of all sexually violent predators and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific person found to be a sexually violent predator under this chapter:

(a) The victim or victims of any sexually violent offenses for which the person was convicted in the past or the victim's next of kin if the crime was a homicide. "Next of kin" as used in this section means a person's spouse, parents, siblings, and children;

(b) Any witnesses who testified against the person in his or her commitment trial under RCW 71.09.060; and

(c) Any person specified in writing by the prosecuting ((~~attorney~~)) agency.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting ((~~attorney~~)) agency to receive the notice, and the notice are confidential and shall not be available to the committed person.

(3) If a person committed as a sexually violent predator under this chapter escapes from a department of social and health services facility, the department shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the committed person resided immediately before his or her commitment as a sexually violent predator, or immediately before his or her incarceration for his or her most recent offense. If previously requested, the department shall also notify the witnesses and the victims of the sexually violent offenses for which the person was convicted in the past or the victim's next of kin if the crime was a homicide. If the person is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(4) If the victim or victims of any sexually violent offenses for which the person was convicted in the past or the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(5) The department of social and health services shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(6) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

NEW SECTION. **Sec. 13.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2012, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 14.** This act takes effect July 1, 2012.

Passed by the Senate March 7, 2012.
Passed by the House March 6, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 258

[Substitute Senate Bill 6508]

DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
OVERPAYMENT RECOVERIES—WAIVER

AN ACT Relating to department of social and health services waivers of overpayment recoveries; amending RCW 43.20B.030; and creating new sections.

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

Sec. 1. RCW 43.20B.030 and 2005 c 292 s 5 are each amended to read as follows:

(1) Except as otherwise provided by law, including subsection (2) of this section, there will be no collection of overpayments and other debts due the department after the expiration of six years from the date of notice of such overpayment or other debt unless the department has commenced recovery action in a court of law or unless an administrative remedy authorized by statute is in place. However, any amount due in a case thus extended shall cease to be a debt due the department at the expiration of ten years from the date of the notice of the overpayment or other debt unless a court-ordered remedy would be in effect for a longer period.

(2) There will be no collection of debts due the department after the expiration of twenty years from the date a lien is recorded pursuant to RCW 43.20B.080.

(3) The department, at any time, may accept offers of compromise of disputed claims or may grant partial or total write-off of any debt due the department if it is no longer cost-effective to pursue. The department shall adopt rules establishing the considerations to be made in the granting or denial of a partial or total write-off of debts.

(4) Notwithstanding the requirements of RCW 43.20B.630, 43.20B.635, 43.20B.640, and 43.20B.645, the department may waive all efforts to collect overpayments from a client when the department determines that the elements of equitable estoppel as set forth in WAC 388-02-0495, as it existed on January 1, 2012, are met.

NEW SECTION. **Sec. 2.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

***NEW SECTION.** Sec. 3. No later than October 1, 2013, the office of fraud and accountability within the department of social and health services, along with the state auditor's office and the department of early learning, shall collaborate in an effort to identify, review, and provide the legislature with recommendations for integrated monitoring and detection systems to prevent overpayments of public assistance from occurring.*

***Sec. 3 was vetoed. See message at end of chapter.**

Passed by the Senate March 3, 2012.
Passed by the House February 29, 2012.
Approved by the Governor March 30, 2012, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State March 30, 2012.

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

"I am returning herewith, without my approval as to Section 3, Substitute Senate Bill 6508 entitled:

"AN ACT Relating to department of social and health services waivers of overpayment recoveries."

Section 3 requires the Office of Fraud and Accountability within the Department of Social and Health Services to collaborate with the Auditor's Office and the Department of Early Learning to identify, review, and provide the Legislature with recommendations for integrated monitoring and detection systems to prevent overpayments of public assistance. The Office of Fraud and Accountability was created for the specific purpose of focusing on the prevention and investigation of abuse and fraud in the use of public assistance benefits. To avoid diluting this focus, the Secretary of the Department of Social and Health Services should determine what resources of the Department are best used in advancing measures to prevent non-fraudulent overpayments of public assistance.

For this reason, I have vetoed Section 3 of Substitute Senate Bill 6508.

With the exception of Section 3, Substitute Senate Bill 6508 is approved."

CHAPTER 259

[Engrossed Substitute Senate Bill 6555]

CHILD PROTECTIVE SERVICES

AN ACT Relating to child protective services; amending RCW 26.44.030, 26.44.031, 26.44.050, and 26.44.125, and 26.44.010; reenacting and amending RCW 26.44.020, 74.13.020, and 74.13.031; adding new sections to chapter 26.44 RCW; adding a new section to chapter 4.24 RCW; creating new sections; and providing an effective date.

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

Sec. 1. RCW 26.44.020 and 2010 c 176 s 1 are each reenacted and amended to read as follows:

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

(1) "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.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "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.

(4) "Child protective services section" means the child protective services section of the department.

(5) "Children's advocacy center" means a child-focused facility in good standing with the state chapter for children's advocacy centers and that coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams within the context of county protocols as defined in RCW 26.44.180 and 26.44.185.

(6) "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.

(7) "Court" means the superior court of the state of Washington, juvenile department.

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

(9) <u>"Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.</u>

(10) "Family assessment response" means a way of responding to certain reports of child abuse or neglect made under this chapter using a differential response approach to child protective services. The family assessment response shall focus on the safety of the child, the integrity and preservation of the family, and shall assess the status of the child and the family in terms of risk of abuse and neglect including the parent's or guardian's or other caretaker's capacity and willingness to protect the child and, if necessary, plan and arrange the provision of services to reduce the risk and otherwise support the family. No one is named as a perpetrator, and no investigative finding is entered in the record as a result of a family assessment.

(11) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(((~~(10)~~))) (12) "Inconclusive" means the determination following an investigation by the department, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

(((~~(11)~~))) (13) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(((~~(12)~~))) (14) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(((~~(13)~~))) (15) "Malice" or "maliciously" means an intent, wish, or design to intimidate, 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.

(((~~(14)~~))) (16) "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 does not constitute negligent treatment or maltreatment in and of itself.

(((~~(15)~~))) (17) "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.

(((~~(16)~~))) (18) "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. 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.

((~~(17)~~)) (19) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

((~~(18)~~)) (20) "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.

((~~(19)~~)) (21) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

((~~(20)~~)) (22) "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.

((~~(21)~~)) (23) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

((~~(22)~~)) (24) "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.

((~~(23)~~)) (25) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has entered into a performance-based contract with the department to provide child welfare services.

((~~(24)~~)) (26) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

NEW SECTION. **Sec. 2.** A new section is added to chapter 26.44 RCW to read as follows:

(1) No later than December 1, 2013, the department shall implement the family assessment response. The department may implement the family assessment response on a phased-in basis, by geographical area.

(2) The department shall develop an implementation plan in consultation with stakeholders, including tribes. The department shall submit a report of the implementation plan to the appropriate committees of the legislature by December 31, 2012. At a minimum, the following must be developed before implementation and included in the report to the legislature:

(a) Description of the family assessment response practice model;

(b) Identification of possible additional noninvestigative responses or pathways;

(c) Development of an intake screening tool and a family assessment tool specifically to be used in the family assessment response. The family assessment tool must, at minimum, evaluate the safety of the child and determine services needed by the family to improve or restore family well-being;

(d) Delineation of staff training requirements;

(e) Development of strategies to reduce disproportionality;

(f) Development of strategies to assist and connect families with the appropriate private or public housing support agencies, for those parents whose inability to obtain or maintain safe housing creates a risk of harm to the child, risk of out-of-home placement of the child, or a barrier to reunification;

(g) Identification of methods to involve local community partners in the development of community-based resources to meet families' needs. Local community partners may include, but are not limited to: Alumni of the foster care system and veteran parents, local private service delivery agencies, schools, local health departments and other health care providers, juvenile court, law enforcement, office of public defense social workers or local defense attorneys, domestic violence victims advocates, and other available community-based entities;

(h) Delineation of procedures to assure continuous quality assurance;

(i) Identification of current departmental expenditures for services appropriate for the family assessment response, to the greatest practicable extent;

(j) Identification of philanthropic funding and other private funding available to supplement public resources in response to identified family needs;

(k) Mechanisms to involve the child's Washington state tribe, if any, in any family assessment response, when the child subject to the family assessment response is an Indian child, as defined in RCW 13.38.040;

(l) A potential phase-in schedule if proposed; and

(m) Recommendations for legislative action required to implement the plan.

Sec. 3. RCW 26.44.030 and 2009 c 480 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11, 13, and 26 RCW, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such

incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as

authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports of child abuse or neglect that are screened in and accepted for departmental response:

(i) Investigation; or

(ii) Family assessment.

(b) In making the response in (a) of this subsection the department shall:

(i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;

(ii) Allow for a change in response assignment based on new information that alters risk or safety level;

(iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;

(iv) Provide a full investigation if a family refuses the initial family assessment;

(v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;

(vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:

(A) Poses a risk of "imminent harm" consistent with the definition provided in RCW 13.34.050, which includes, but is not limited to, sexual abuse and sexual exploitation as defined in this chapter;

(B) Poses a serious threat of substantial harm to a child;

(C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;

(D) The child is an abandoned child as defined in RCW 13.34.030;

(E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW, or by the department of early learning.

(c) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.

(12)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

((~~(12)~~)) (13) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:

(a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;

(b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;

(c) Complete the family assessment response within forty-five days of receiving the report; however, upon parental agreement, the family assessment response period may be extended up to ninety days;

(d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;

(e) Implement the family assessment response in a consistent and cooperative manner;

(f) Have the parent or guardian sign an agreement to participate in services before services are initiated that informs the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not sign the consent form.

(14) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the

safety of the child or the integrity of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(((~~(13)~~))) (15) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombudsman of the contents of the report. The department shall also notify the ombudsman of the disposition of the report.

(((~~(14)~~))) (16) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(((~~(15)~~))) (17)(a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

(((~~(16)~~))) (18) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. ((~~The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.~~

~~(17)~~))) (19) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(((~~(18)~~))) (20) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

Sec. 4. RCW 26.44.031 and 2007 c 220 s 3 are each amended to read as follows:

(1) To protect the privacy in reporting and the maintenance of reports of nonaccidental injury, neglect, death, sexual abuse, and cruelty to children by

their parents, and to safeguard against arbitrary, malicious, or erroneous information or actions, the department shall not disclose or maintain information related to reports of child abuse or neglect except as provided in this section or as otherwise required by state and federal law.

(2) The department shall destroy all of its records concerning:

(a) A screened-out report, within three years from the receipt of the report; and

(b) An unfounded or inconclusive report, within six years of completion of the investigation, unless a prior or subsequent founded report has been received regarding the child who is the subject of the report, a sibling or half-sibling of the child, or a parent, guardian, or legal custodian of the child, before the records are destroyed.

(3) The department may keep records concerning founded reports of child abuse or neglect as the department determines by rule.

(4) ((~~An~~)) No unfounded, screened-out, or inconclusive report or information about a family's participation or nonparticipation in the family assessment response may ((~~not~~)) be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW without the consent of the individual who is the subject of the report or family assessment, unless:

(a) The individual seeks to become a licensed foster parent or adoptive parent; or

(b) The individual is the parent or legal custodian of a child being served by one of the agencies referenced in this subsection.

(5)(a) If the department fails to comply with this section, an individual who is the subject of a report may institute proceedings for injunctive or other appropriate relief for enforcement of the requirement to purge information. These proceedings may be instituted in the superior court for the county in which the person resides or, if the person is not then a resident of this state, in the superior court for Thurston county.

(b) If the department fails to comply with subsection (4) of this section and an individual who is the subject of the report or family assessment response information is harmed by the disclosure of information, in addition to the relief provided in (a) of this subsection, the court may award a penalty of up to one thousand dollars and reasonable attorneys' fees and court costs to the petitioner.

(c) A proceeding under this subsection does not preclude other methods of enforcement provided for by law.

(6) Nothing in this section shall prevent the department from retaining general, nonidentifying information which is required for state and federal reporting and management purposes.

Sec. 5. RCW 26.44.050 and 1999 c 176 s 33 are each amended to read as follows:

Except as provided in RCW 26.44.030(11), upon the receipt of a report concerning the possible occurrence of abuse or neglect, the law enforcement agency or the department of social and health services must investigate and provide the protective services section with a report in accordance with chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child

is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.

NEW SECTION. **Sec. 6.** A new section is added to chapter 26.44 RCW to read as follows:

(1) Within ten days of the conclusion of the family assessment, the department must meet with the child's parent or guardian to discuss the recommendation for services to address child safety concerns or significant risk of subsequent child maltreatment.

(2) If the parent or guardian disagrees with the department's recommendation regarding the provision of services, the department shall convene a family team decision-making meeting to discuss the recommendations and objections. The caseworker's supervisor and area administrator shall attend the meeting.

(3) If the department determines, based on the results of the family assessment, that services are not recommended then the department shall close the family assessment response case.

Sec. 7. RCW 74.13.020 and 2011 c 330 s 4 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Case management" means ((~~the management of services delivered to children and families in the child welfare system, including permanency services, caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act~~)) convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the child and family, caseworker-child visits, family visits, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means:

(a) A person less than eighteen years of age; or

(b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

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

(7) "Extended foster care services" means residential and other support services the department is authorized to provide to foster children. These services include, but are not limited to, placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(8) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

(9) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(((~~(9)~~))) (10) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(((~~(10)~~))) (11) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(((~~(11)~~))) (12) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(((~~(12)~~))) (13) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family

well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(((~~(13)~~))) (14) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services, as defined in this section.

Sec. 8. RCW 74.13.031 and 2011 c 330 s 5 and 2011 c 160 s 2 are each reenacted and amended to read as follows:

(1) The department and supervising agencies shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department and supervising agencies shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's and supervising agency's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) As provided in RCW 26.44.030(11), the department may respond to a report of child abuse or neglect by using the family assessment response.

(5) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(((~~(5)~~))) (6) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department and the supervising agencies shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an

unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department and supervising agencies are encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department or supervising agencies shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

((~~(6)~~)) (7) The department and supervising agencies shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

((~~(7)~~)) (8) The department and supervising agency shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

((~~(8)~~)) (9) The department and supervising agency shall have authority to purchase care for children.

((~~(9)~~)) (10) The department shall establish a children's services advisory committee with sufficient members representing supervising agencies which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

((~~(10)~~)) (11) The department and supervising agencies shall have authority to provide continued extended foster care services to youth ages eighteen to twenty-one years to participate in or complete a secondary education program or a secondary education equivalency program.

((~~(11)~~)) (12) The department((~~, has~~)) shall have authority to provide adoption support benefits, or relative guardianship subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a relative guardianship at age sixteen or older and who meet the criteria described in subsection ((~~(10)~~)) (11) of this section.

((~~(12)~~)) (13) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

((~~(13)~~)) (14) The department and supervising agencies shall have authority within funds appropriated for foster care services to purchase care for Indian

children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department under subsections (4), ((~~(6), and~~)) (7), and (8) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

((~~(14)~~)) (15) Within amounts appropriated for this specific purpose, the supervising agency or department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

((~~(15)~~)) (16) The department and supervising agencies shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

((~~(16)~~)) (17) The department and supervising agencies shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department and supervising agencies are performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(18)(a) The department shall, within current funding levels, place on its public web site a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

NEW SECTION. **Sec. 9.** The Washington state institute for public policy shall conduct an evaluation of the implementation of the family assessment response. The institute shall define the data to be gathered and maintained. At a minimum, the evaluations must address child safety measures, out-of-home placement rates, re-referral rates, and caseload sizes and demographics. The

institute shall deliver its first report no later than December 1, 2014, and its final report by December 1, 2016.

NEW SECTION. **Sec. 10.** The department of social and health services shall conduct two client satisfaction surveys of families that have been placed in the family assessment response. The first survey results shall be reported no later than December 1, 2014. The second survey results shall be reported no later than December 1, 2016.

Sec. 11. RCW 26.44.125 and 1998 c 314 s 9 are each amended to read as follows:

(1) A person who is named as an alleged perpetrator after October 1, 1998, in a founded report of child abuse or neglect has the right to seek review and amendment of the finding as provided in this section.

(2) Within ((~~twenty~~)) thirty calendar days after ((~~receiving written notice from the department~~)) the department has notified the alleged perpetrator under RCW 26.44.100 that ((~~a~~)) the person is named as an alleged perpetrator in a founded report of child abuse or neglect, he or she may request that the department review the finding. The request must be made in writing. The written notice provided by the department must contain at least the following information in plain language:

(a) Information about the department's investigative finding as it relates to the alleged perpetrator;

(b) Sufficient factual information to apprise the alleged perpetrator of the date and nature of the founded reports;

(c) That the alleged perpetrator has the right to submit to child protective services a written response regarding the child protective services finding which, if received, shall be filed in the department's records;

(d) That information in the department's records, including information about this founded report, may be considered in a later investigation or proceeding related to a different allegation of child abuse or neglect or child custody;

(e) That founded allegations of child abuse or neglect may be used by the department in determining:

(i) If a perpetrator is qualified to be licensed or approved to care for children or vulnerable adults; or

(ii) If a perpetrator is qualified to be employed by the department in a position having unsupervised access to children or vulnerable adults;

(f) That the alleged perpetrator has a right to challenge a founded allegation of child abuse or neglect.

(3) If a request for review is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding, unless he or she can show that the department did not comply with the notice requirements of RCW 26.44.100.

(((~~3~~))) (4) Upon receipt of a written request for review, the department shall review and, if appropriate, may amend the finding. Management level staff within the children's administration designated by the secretary shall be responsible for the review. The review must be completed within thirty days after receiving the written request for review. The review must be conducted in

accordance with procedures the department establishes by rule. Upon completion of the review, the department shall notify the alleged perpetrator in writing of the agency's determination. The notification must be sent by certified mail, return receipt requested, to the person's last known address.

((~~(4)~~)) (5) If, following agency review, the report remains founded, the person named as the alleged perpetrator in the report may request an adjudicative hearing to contest the finding. The adjudicative proceeding is governed by chapter 34.05 RCW and this section. The request for an adjudicative proceeding must be filed within thirty calendar days after receiving notice of the agency review determination. If a request for an adjudicative proceeding is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding.

((~~(5)~~)) (6) Reviews and hearings conducted under this section are confidential and shall not be open to the public. Information about reports, reviews, and hearings may be disclosed only in accordance with federal and state laws pertaining to child welfare records and child protective services reports.

((~~(6)~~)) (7) The department may adopt rules to implement this section.

Sec. 12. RCW 26.44.010 and 1999 c 176 s 27 are each amended to read as follows:

The Washington state legislature finds and declares: The bond between a child and his or her parent, custodian, or guardian is of paramount importance, and any intervention into the life of a child is also an intervention into the life of the parent, custodian, or guardian; however, instances of nonaccidental injury, neglect, death, sexual abuse and cruelty to children by their parents, custodians or guardians have occurred, and in the instance where a child is deprived of his or her right to conditions of minimal nurture, health, and safety, the state is justified in emergency intervention based upon verified information; and therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities. It is the intent of the legislature that, as a result of such reports, protective services shall be made available in an effort to prevent further abuses, and to safeguard the general welfare of such children((~~: PROVIDED, That such~~)). When the child's physical or mental health is jeopardized, or the safety of the child conflicts with the legal rights of a parent, custodian, or guardian, the health and safety interests of the child should prevail. When determining whether a child and a parent, custodian, or guardian should be separated during or immediately following an investigation of alleged child abuse or neglect, the safety of the child shall be the department's paramount concern. Reports of child abuse and neglect shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious or erroneous information or actions((~~: PROVIDED FURTHER, That~~)). This chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare and safety.

NEW SECTION. **Sec. 13.** A new section is added to chapter 4.24 RCW to read as follows:

(1) Governmental entities, and their officers, agents, employees, and volunteers, are not liable in tort for any of their acts or omissions in emergent placement investigations of child abuse or neglect under chapter 26.44 RCW including, but not limited to, any determination to leave a child with a parent, custodian, or guardian, or to return a child to a parent, custodian, or guardian, unless the act or omission constitutes gross negligence. Emergent placement investigations are those conducted prior to a shelter care hearing under RCW 13.34.065.

(2) The department of social and health services and its employees shall comply with the orders of the court, including shelter care and other dependency orders, and are not liable for acts performed to comply with such court orders. In providing reports and recommendations to the court, employees of the department of social and health services are entitled to the same witness immunity as would be provided to any other witness.

NEW SECTION. **Sec. 14.** A new section is added to chapter 26.44 RCW to read as follows:

Consistent with the paramount concern of the department to protect the child's interests of basic nurture, physical and mental health, and safety, and the requirement that the child's health and safety interests prevail over conflicting legal interests of a parent, custodian, or guardian, the liability of governmental entities, and their officers, agents, employees, and volunteers, to parents, custodians, or guardians accused of abuse or neglect is limited as provided in section 13 of this act.

NEW SECTION. **Sec. 15.** Sections 1 and 3 through 10 of this act take effect December 1, 2013.

Passed by the Senate March 7, 2012.
Passed by the House March 6, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 260

[Substitute Senate Bill 6574]

STADIUM AND EXHIBITION CENTERS—ADMISSIONS TAXES

AN ACT Relating to authorizing certain cities in which stadium and exhibition centers are located to impose admissions taxes in limited circumstances; and amending RCW 36.38.010.

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

Sec. 1. RCW 36.38.010 and 2011 1st sp.s. c 38 s 2 are each amended to read as follows:

(1) Any county may by ordinance enacted by its county legislative authority, levy and fix a tax of not more than one cent on twenty cents or fraction thereof to be paid for county purposes by persons who pay an admission charge to any place, including a tax on persons who are admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same or similar privileges or accommodations; and require that one who receives any admission charge to any place must collect and remit the tax to the county treasurer of the county. However, no county may impose such tax on persons paying an admission to any activity of any elementary or secondary

school or any public facility of a public facility district under chapter 35.57 or 36.100 RCW for which a tax is imposed under RCW 35.57.100 or 36.100.210.

(2) As used in this chapter, the term "admission charge" includes a charge made for season tickets or subscriptions, a cover charge, or a charge made for use of seats and tables, reserved or otherwise, and other similar accommodations; a charge made for food and refreshments in any place where any free entertainment, recreation, or amusement is provided; a charge made for rental or use of equipment or facilities for purpose of recreation or amusement, and where the rental of the equipment or facilities is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges must be considered as the admission charge. Admission charge also includes any automobile parking charge where the amount of such charge is determined according to the number of passengers in any automobile.

(3) Subject to subsections (4) and (5) of this section, the tax authorized in this section is not exclusive and does not prevent any city or town within the taxing county, when authorized by law, from imposing within its corporate limits a tax of the same or similar kind. However, whenever the same or similar kind of tax is imposed by any such city or town, no such tax may be levied within the corporate limits of such city or town by the county.

(4) Notwithstanding subsection (3) of this section, the legislative authority of a county with a population of one million or more may exclusively levy taxes on events in baseball stadiums constructed on or after January 1, 1995, that are owned by a public facilities district under chapter 36.100 RCW and that have seating capacities over forty thousand at the rates of:

(a) Not more than one cent on twenty cents or fraction thereof, to be used for the purpose of paying the principal and interest payments on bonds issued by a county to construct a baseball stadium as defined in RCW 82.14.0485. If the revenue from the tax exceeds the amount needed for that purpose, the excess must be placed in a contingency fund which must be used exclusively by the public facilities district to fund repair, reequipping, and capital improvement of the baseball stadium; and

(b) Not more than one cent on twenty cents or fraction thereof, to be used for the purpose of paying the principal and interest payments on bonds issued by a county to construct a baseball stadium as defined in RCW 82.14.0485. The tax imposed under this subsection (4)(b) expires when the bonds issued for the construction of the baseball stadium are retired, but not later than twenty years after the tax is first collected.

(5)(a) Notwithstanding subsection (3) of this section, the legislative authority of a county that has created a public stadium authority to develop a stadium and exhibition center under RCW 36.102.050 may levy and fix a tax on charges for admission to events in a stadium and exhibition center, as defined in RCW 36.102.010, constructed in the county on or after January 1, 1998, that is owned by a public stadium authority under chapter 36.102 RCW.

(b) Except as provided otherwise in (c) of this subsection (5), the tax is exclusive and precludes the city or town within which the stadium and exhibition center is located from imposing a tax of the same or similar kind on charges for admission to events in the stadium and exhibition center, and precludes the imposition of a general county admissions tax on charges for admission to events in the stadium and exhibition center.

(c) A city within which the stadium and exhibition center is located has the exclusive right to impose an admissions tax under the authority of RCW 35.21.280 and the county is precluded from imposing an admissions tax, for a sporting event conducted during calendar year 2012 by a state college or university, if such sporting event occurs:

(i) Due to the temporary closure of any similar facility owned by that college or university; and

(ii) At a facility owned by a public stadium authority located within a city with a population that exceeds five hundred thousand people.

(d) For the purposes of this subsection (5), "charges for admission to events" means only the actual admission charge, exclusive of taxes and service charges and the value of any other benefit conferred by the admission.

(e) The tax authorized under this subsection (5) is at the rate of not more than one cent on ten cents or fraction thereof.

(f) Revenues collected under this subsection (5) must be deposited in the stadium and exhibition center account under RCW 43.99N.060 until the bonds issued under RCW 43.99N.020 for the construction of the stadium and exhibition center are retired. After the bonds issued for the construction of the stadium and exhibition center are retired, the tax authorized under this section is used exclusively to fund repair, reequipping, and capital improvement of the stadium and exhibition center.

(g) The tax under this subsection (5) may be levied upon the first use of any part of the stadium and exhibition center but may not be collected at any facility already in operation as of July 17, 1997.

Passed by the Senate February 14, 2012.
Passed by the House March 1, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 261

[Engrossed Second Substitute House Bill 2373]

RECREATIONAL RESOURCES—STATE MANAGEMENT

AN ACT Relating to the state's management of its recreational resources; amending RCW 79A.80.010, 79A.80.020, 79A.80.030, 79A.80.040, 79A.80.050, 79A.80.080, 79A.05.070, 46.16A.090, and 46.01.140; adding a new section to chapter 79A.80 RCW; adding a new section to chapter 46.01 RCW; creating new sections; providing expiration dates; and declaring an emergency.

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

Sec. 1. RCW 79A.80.010 and 2011 c 320 s 2 are each amended to read as follows:

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

(1) "Agency" or "agencies" means the department of fish and wildlife, the department of natural resources, and the parks and recreation commission.

(2) "Annual natural investment permit" means the annual permit issued by the parks and recreation commission for the purpose of launching boats from the designated state parks boat launch sites.

(3) "Camper registration" means proof of payment of a camping fee on recreational lands managed by the parks and recreation commission.

(4) "Day-use permit" means the permit created in RCW 79A.80.030.

(5) "Discover pass" means the annual pass created in RCW 79A.80.020.

(6) "Motor vehicle" has the same meaning as defined in RCW 46.04.320 and which are required to be registered under chapter 46.16A RCW. "Motor vehicle" does not include those motor vehicles exempt from registration under RCW 46.16A.080 and state and publicly owned motor vehicles as provided in RCW 46.16A.170.

(7) "Recreation site or lands" means a state park ((~~or~~)), state lands and state forest lands as those terms are defined in RCW 79.02.010, natural resources conservation areas as that term is defined in RCW 79.71.030, natural area preserves as that term is defined in RCW 79.70.020, and fish and wildlife conservation sites including water access areas, boat ramps, wildlife areas, parking areas, roads, and trailheads((~~, or department of natural resources developed or designated recreation areas, sites, trailheads, and parking areas~~)).

(8) "Sno-park seasonal permit" means the seasonal permit issued by the parks and recreation commission for providing access to winter recreational facilities for the period of November 1st through March 31st.

(9) "Vehicle access pass" means the pass created in RCW 79A.80.040.

Sec. 2. RCW 79A.80.020 and 2011 c 320 s 3 are each amended to read as follows:

(1) Except as otherwise provided in RCW 79A.80.050, 79A.80.060, and 79A.80.070, a discover pass is required for any motor vehicle to park or operate on any recreation site or lands, except for short-term parking as may be authorized under RCW 79A.80.070.

(2) The cost of ((~~the~~)) a discover pass is thirty dollars ((~~per motor vehicle~~)). Every four years the office of financial management must review the cost of the discover pass and, if necessary, recommend to the legislature an adjustment to the cost of the discover pass to account for inflation.

(3) ((~~The~~)) A discover pass is valid for one year ((~~from the date of issuance~~)) beginning from the date that the discover pass is marked for activation. The activation date may differ from the purchase date pursuant to any policies developed by the agencies.

(4) ((~~The discover pass must be made available for purchase throughout the year through the department of fish and wildlife's automated licensing system consistent with RCW 77.32.050.~~

~~(5) The~~)) Sales of discover ((~~pass~~)) passes must be ((~~made available for purchase through the department of licensing as provided in RCW 46.16A.090. The department of licensing, county auditor, or other agent or subagent appointed by the director, is not responsible for delivering a purchased discover pass to a motor vehicle owner. The agencies must deliver the purchased discover pass to a motor vehicle owner.~~

~~(6) The state parks and recreation commission may make the discover pass available for purchase through its reservation system and other outlets authorized by law to sell licenses, permits, or passes~~)) consistent with section 4 of this act.

(((~~(7)~~))) (5) The discover pass must contain space for ((~~the~~)) two motor vehicle license plate numbers. A discover pass is valid only for those vehicle license plate numbers written on the pass. However, the agencies may offer for sale a family discover pass that is fully transferable among vehicles and does not

require the placement of a license plate number on the pass to be valid. The agencies must collectively set a price for the sale of a family discover pass that is no more than fifty dollars. A discover pass is valid only for use with one motor vehicle at any one time.

((~~(8) A~~)) (6) One complimentary discover pass must be provided to a volunteer who performed twenty-four hours of service on agency-sanctioned volunteer projects in a year. The agency must provide vouchers to volunteers identifying the number of volunteer hours they have provided for each project. The vouchers may be brought to an agency to be redeemed for a discover pass.

Sec. 3. RCW 79A.80.030 and 2011 c 320 s 4 are each amended to read as follows:

(1) A person may purchase a day-use permit to meet the requirements of RCW 79A.80.080. ((~~The~~)) A day-use permit is ten dollars per day and must be available for purchase from each agency. ((~~The~~)) A day-use permit is valid for one calendar day.

(2) The agencies may provide short-term parking under RCW 79A.80.070 where ((~~the~~)) a day-use permit is not required.

(3) Every four years the office of financial management must review the cost of the day-use permit and, if necessary, recommend to the legislature an adjustment to the cost of the day-use permit to account for inflation.

(4) Sales of day-use permits must be consistent with section 4 of this act.

NEW SECTION. **Sec. 4.** A new section is added to chapter 79A.80 RCW to read as follows:

(1) Discover passes and day-use permits may be made available for purchase:

(a) Through vendors under contract with one or more of the agencies. The agencies may provide vendors with discover passes and day-use permits at the sales price established under RCW 79A.80.020 and 79A.80.030 to sell at retail;

(b) Directly from the state parks and recreation commission, both through that agency's parks reservation system, directly from agency employees or volunteers at staffed state parks, or as otherwise provided in RCW 79A.05.070;

(c) From the department of licensing as provided in RCW 46.16A.090 and section 11 of this act;

(d) From other outlets authorized by law to sell state licenses, permits, or passes; and

(e) Consistent with RCW 77.32.050, through the department of fish and wildlife's automated licensing system.

(2) The agencies must maintain a policy to address conditions related to return, replacements, and for providing the full year of recreational lands access that the discover pass provides to individuals who are required by the department of licensing to change license plate numbers during the effective dates of a discover pass tied to the affected vehicle.

(3) For discover passes and day-use permits purchased through the department of licensing, county auditors, or other agents or subagents appointed by the director of the department of licensing, the selling entity is not responsible for delivering the purchased discover pass to the purchaser. The responsibility for delivering the discover pass belongs to the agencies.

Sec. 5. RCW 79A.80.040 and 2011 c 320 s 5 are each amended to read as follows:

(1) The vehicle access pass is created solely for access to the department of fish and wildlife recreation sites or lands. The vehicle access pass is only available to a person who purchases a current valid: Big game hunting license issued under RCW 77.32.450; small game hunting license issued under RCW 77.32.460; western Washington pheasant permit issued under RCW 77.32.575; trapping license issued under RCW 77.65.450; watchable wildlife decal issued under RCW 77.32.560; or combination, saltwater, or freshwater personal use fishing license issued under RCW 77.32.470.

(2) One vehicle access pass must be issued per purchase pursuant to subsection (1) of this section.

(3) The vehicle access pass is valid for the license year of the license it is purchased with.

(4) The vehicle access pass must contain space for two motor vehicle license plate numbers. A vehicle access pass is only valid for those vehicle license plate numbers written on the pass.

Sec. 6. RCW 79A.80.050 and 2011 c 320 s 6 are each amended to read as follows:

(1) ((~~The~~)) A discover pass or ((~~the~~)) a day-use permit are not required within a state park for persons who have a valid camper registration, or annual natural investment permit, issued by the state parks and recreation commission.

(2) The state parks and recreation commission ((~~may~~)) must provide up to twelve days a year where entry to ((~~the~~)) state parks is free. At least three of those days must be on weekends. When practicable, the free access days should be timed to correspond with any similar free access days planned by the national park service for national parks located in the general region of high volume state parks.

Sec. 7. RCW 79A.80.080 and 2011 c 320 s 9 are each amended to read as follows:

(1) ((~~The~~)) A discover pass, ((~~the~~)) vehicle access pass, or ((~~the~~)) day-use permit must be visibly displayed in the front windshield of any motor vehicle or otherwise in a prominent location for vehicles without a windshield:

(a) Operating on a recreation site or lands; or

(b) Parking at a recreation site or lands.

(2) The discover pass, the vehicle access pass, or the day-use permit is not required on private lands, state-owned aquatic lands other than water access areas, or at agency offices, hatcheries, or other facilities where public business is conducted.

(3)((~~(a)~~)) The discover pass, the vehicle access pass, or the day-use permit is not required for:

(a) Persons who use, possess, or enter lands owned or managed by the agencies for nonrecreational purposes consistent with a written authorization from the agency, including but not limited to leases, contracts, and easements((~~.~~

~~(b) The discover pass or the day-use permit is not required~~)); or

(b) On department of fish and wildlife lands only, for persons possessing a current vehicle access pass pursuant to RCW 79A.80.040.

(4)(a) An agency may waive the requirements of this section for any person who has secured the ability to access specific recreational land through the provision of monetary consideration to the agency or for any person attending an event or function that required the provision of monetary compensation to the agency.

(b) Special events and group activities are core recreational activities and major public service opportunities within state parks. When waiving the requirements of this section for special events, the state parks and recreation commission must consider the direct and indirect costs and benefits to the state, local market rental rates, the public service functions of the event sponsor, and other public interest factors when setting appropriate fees for each event or activity.

(5) Failure to comply with subsection (1) of this section is a natural resource infraction under chapter 7.84 RCW. An agency is authorized to issue a notice of infraction to any person who fails to comply with subsection (1)(a) of this section or to any motor vehicle that fails to comply with subsection (1)(b) of this section.

((~~(5)~~)) (6) The penalty for failure to comply with the requirements of this section is ninety-nine dollars. This penalty ((~~is~~)) must be reduced to fifty-nine dollars if an individual provides proof of purchase of ((~~the~~)) a discover pass to the court within fifteen days after the issuance of the notice of violation.

Sec. 8. RCW 79A.05.070 and 2011 c 320 s 24 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~~)) must 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. The commission may utilize unstaffed collection stations to collect any fees or distribute any permits necessary for access to state parks, including discover passes and day-use permits as those terms are defined in RCW 79A.80.010;

(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~~)) must 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~~)) Utilize 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~~)). However, the commission ((~~shall~~)) does not have power to supervise directly any local park or recreation district, and no funds shall be made available for such purpose.

Sec. 9. RCW 46.16A.090 and 2011 c 320 s 12 are each amended to read as follows:

(1) The department, county auditor or other agent, or subagent appointed by the director ((~~shall~~)) must provide an opportunity for a vehicle owner to make a voluntary donation as provided in this section when applying for an initial or renewal vehicle registration.

(2)(a) A vehicle owner who registers a vehicle under this chapter may donate one dollar or more to the organ and tissue donation awareness account to promote the donation of organs and tissues under the uniform anatomical gift act as described in chapter 68.64 RCW. The donation of one or more dollars is voluntary and may be refused by the vehicle owner.

(b) The department, county auditor or other agent, or subagent appointed by the director ((~~shall~~)) must:

(i) Ask a vehicle owner applying for a vehicle registration if the owner would like to donate one dollar or more;

(ii) Inform a vehicle owner of the option for organ and tissue donations as required under RCW 46.20.113; and

(iii) Make information booklets or other informational material available regarding the importance of organ and tissue donations to vehicle owners.

(c) All reasonable costs associated with the creation of the donation program created under this section must be paid proportionally or by another agreement by a participating Washington state organ procurement organization established for organ and tissue donation awareness purposes by the Washington state organ procurement organizations. For the purposes of this section, "reasonable costs" and "Washington state organ procurement organization" have the same meaning as in RCW 68.64.010.

(3) The department ((~~shall~~)) must collect from a vehicle owner who pays a vehicle license fee under RCW 46.17.350(1) (a), (d) through (l), (((~~(e), (g), (h), (j),~~)) (n), (o), or (q) or who registers a vehicle under RCW 46.16A.455 with a

declared gross weight of ((~~ten~~)) twelve thousand pounds or less a voluntary donation of five dollars. The donation may not be collected from any vehicle owner actively opting not to participate in the donation program. The department ((~~shall~~)) must ensure that the opt-out donation under this section is clear, visible, and prominently displayed in both paper and online vehicle registration renewals. Notification of intent to not participate in the donation program must be provided annually at the time of vehicle registration renewal. The donation must be deposited in the state parks renewal and stewardship account established in RCW 79A.05.215 to be used for the operation and maintenance of state parks.

(4) ((~~Beginning with vehicle license fees that are due or will become due on or after October 1, 2011,~~)) A vehicle owner who registers a vehicle under this chapter may purchase a discover pass for ((~~a fee of thirty dollars, as may be adjusted for inflation under~~)) the price amount established in RCW 79A.80.020. Purchase of ((~~the~~)) a discover pass is voluntary by the vehicle owner. The discover pass fee must be deposited in the recreation access pass account created in RCW 79A.80.090. The department, county auditor, or other agent or subagent appointed by the director is not responsible for delivering a purchased discover pass to a motor vehicle owner. The agencies, as defined in RCW 79A.80.010, must deliver the purchased discover pass to a motor vehicle owner.

Sec. 10. RCW 46.01.140 and 2011 c 171 s 11 are each amended to read as follows:

(1) **County auditor/agent duties.** A county auditor or other agent appointed by the director ((~~shall~~)) must:

(a) Enter into a standard contract provided by the director;

(b) Provide all services authorized by the director for vehicle certificates of title and vehicle registration applications and issuance under the direction and supervision of the director including, but not limited to:

(i) Processing reports of sale;

(ii) Processing transitional ownership transactions;

(iii) Processing mail-in vehicle registration renewals until directed otherwise by legislative authority;

(iv) Issuing registrations and temporary ORV use permits for off-road vehicles as required under chapter 46.09 RCW;

(v) Issuing registrations for snowmobiles as required under chapter 46.10 RCW; and

(vi) Collecting fees and taxes as required;

(c) If authorized by the director, offer for sale discover passes as provided in chapter 79A.80 RCW.

(2) **County auditor/agent assistants and subagents.** A county auditor or other agent appointed by the director may, with approval of the director:

(a) Appoint assistants as special deputies to accept applications for vehicle certificates of title and to issue vehicle registrations; and

(b) Recommend and request that the director appoint subagencies within the county to accept applications for vehicle certificates of title and vehicle registration application issuance.

(3) **Appointing subagents.** A county auditor or other agent appointed by the director who requests a subagency ((~~shall~~)) must, with approval of the director:

(a) Use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants; and

(b) Submit all proposals to the director with a recommendation for appointment of one or more subagents who have applied through the open competitive process. If a qualified successor who is an existing subagent's sibling, spouse, or child, or a subagency employee has applied, the county auditor ((~~shall~~)) must provide the name of the qualified successor and the name of one other applicant who is qualified and was chosen through the open competitive process.

(4) **Subagent duties.** A subagent appointed by the director ((~~shall~~)) must:

(a) Enter into a standard contract with the county auditor or agent provided by the director; ((~~and~~))

(b) Provide all services authorized by the director for vehicle certificates of title and vehicle registration applications and issuance under the direction and supervision of the county auditor or agent and the director including, but not limited to:

(i) Processing reports of sale;

(ii) Processing transitional ownership transactions;

(iii) Mailing out vehicle registrations and replacement plates to internet payment option customers until directed otherwise by legislative authority;

(iv) Issuing registrations and temporary ORV use permits for off-road vehicles as required under chapter 46.09 RCW;

(v) Issuing registrations for snowmobiles as required under chapter 46.10 RCW; and

(vi) Collecting fees and taxes as required; and

(c) If authorized by the director, offer for sale discover passes as provided in chapter 79A.80 RCW.

(5) **Subagent successorship.** A subagent appointed by the director who no longer wants his or her appointment may recommend a successor who is the subagent's sibling, spouse, or child, or a subagency employee. The recommended successor must participate in the open competitive process used to select an applicant. In making successor recommendations and appointment determinations, the following provisions apply:

(a) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers;

(b) A subagent may not receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment; and

(c) The appointment of a successor is intended to assist in the efficient transfer of appointments to minimize public inconvenience. The appointment of a successor does not create a proprietary or property interest in the appointment.

(6) **Standard contracts.** The standard contracts provided by the director in this section may include provisions that the director deems necessary to ensure that readily accessible and acceptable service is provided to the citizens of the state, including the full collection of fees and taxes. The standard contracts must include provisions that:

(a) Describe responsibilities and liabilities of each party related to service expectations and levels;

(b) Describe the equipment to be supplied by the department and equipment maintenance;

(c) Require specific types of insurance or bonds, or both, to protect the state against any loss of collected revenue or loss of equipment;

(d) Specify the amount of training that will be provided by each of the parties;

(e) Describe allowable costs that may be charged for vehicle registration activities as described in subsection (7) of this section; and

(f) Describe causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(7) **County auditor/agent cost reimbursement.** A county auditor or other agent appointed by the director who does not cover expenses for services provided by the standard contract may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department ((~~shall~~)) must develop procedures to standardize and identify allowable costs and to verify whether a request is reasonable. Payment must be made on those requests found to be allowable from the licensing services account.

(8) **County auditor/agent revenue disbursement.** County revenues that exceed the cost of providing services described in the standard contract, calculated in accordance with the procedures in subsection (7) of this section, must be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(9) **Appointment authority.** The director has final appointment authority for county auditors or other agents or subagents.

(10) **Rules.** The director may adopt rules to implement this section.

NEW SECTION. **Sec. 11.** A new section is added to chapter 46.01 RCW to read as follows:

The department may, in coordination with the state parks and recreation commission, offer for sale and distribute discover passes and day-use permits, as provided in chapter 79A.80 RCW, at the department's drivers' licenses offices. Any amounts collected by the department through the sales of discover passes and day-use permits must be deposited in the recreation access pass account created in RCW 79A.80.090.

NEW SECTION. **Sec. 12.** (1) A state agency may not refund money for a discover pass or vehicle access pass issued prior to the effective date of this section.

(2) Each discover pass or vehicle access pass issued prior to the effective date of this section is valid for two license plate numbers written on the pass.

(3) For the purposes of this section, the terms "discover pass" and "vehicle access pass" have the same meanings provided under RCW 79A.80.010.

(4) This section expires December 31, 2013.

NEW SECTION. **Sec. 13.** (1) By December 31, 2013, the agencies responsible for implementing the discover pass requirements of chapter 79A.80 RCW must prepare a report to the legislature, delivered consistent with RCW 43.01.036, that identifies opportunities for simplifying the administration and

use of the discover pass and creating consistent recreational access policies across all lands that require a discover pass for lawful recreational access. The report must specifically address options for consistent boat launch policies among the agencies and, more generally, address how consistency can be developed for other inconsistent interagency access policies.

(2) To the degree the agencies have the authority to address inconsistent recreational access policies administratively, progress towards this end should be included in the required report. If inconsistent recreational access polices are a result of statutory limits, then the report should identify those barriers to consist recreational access policies.

(3) This section expires July 30, 2014.

NEW SECTION. **Sec. 14.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 7, 2012.
Passed by the Senate March 6, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

CHAPTER 262

[Substitute Senate Bill 6387]

STATE PARKS, RECREATION, NATURAL RESOURCES—FISCAL MATTERS

AN ACT Relating to state parks, recreation, and natural resources fiscal matters; and amending RCW 3.62.020 and 7.84.100.

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

Sec. 1. RCW 3.62.020 and 2011 1st sp.s. c 44 s 1 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, all costs, fees, fines, forfeitures and penalties assessed and collected in whole or in part by district courts, except costs, fines, forfeitures and penalties assessed and collected, in whole or in part, because of the violation of city ordinances, shall be remitted by the clerk of the district court to the county treasurer at least monthly, together with a financial statement as required by the state auditor, noting the information necessary for crediting of such funds as required by law.

(2) Except as provided in RCW 10.99.080, 7.84.100(4), and this section, the county treasurer shall remit thirty-two percent of the noninterest money received under subsection (1) of this section except certain costs to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state or county in the prosecution of the case, including the fees of defense counsel. With the exception of funds to be transferred to the judicial stabilization trust account under RCW 3.62.060(2), money remitted under this subsection to the state treasurer shall be deposited in the state general fund.

(3) The balance of the noninterest money received by the county treasurer under subsection (1) of this section shall be deposited in the county current expense fund. Funds deposited under this subsection that are attributable to the county's portion of a surcharge imposed under RCW 3.62.060(2) must be used to support local trial court and court-related functions.

(4) Except as provided in RCW 7.84.100(4), all money collected for county parking infractions shall be remitted by the clerk of the district court at least monthly, with the information required under subsection (1) of this section, to the county treasurer for deposit in the county current expense fund.

(5) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(6) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the state general fund, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the county current expense fund, and twenty-five percent to the county current expense fund to fund local courts.

Sec. 2. RCW 7.84.100 and 1987 c 380 s 10 are each amended to read as follows:

(1) A person found to have committed an infraction shall be assessed a monetary penalty. No penalty may exceed five hundred dollars for each offense unless specifically authorized by statute.

(2) The supreme court may prescribe by rule a schedule of monetary penalties for designated infractions. The legislature requests the supreme court to adjust this schedule every two years for inflation. The maximum penalty imposed by the schedule shall be five hundred dollars per infraction and the minimum penalty imposed by the schedule shall be ten dollars per infraction. This schedule may be periodically reviewed by the legislature and is subject to its revision.

(3) Whenever a monetary penalty is imposed by a court under this chapter, it is immediately payable. If the person is unable to pay at that time, the court may, in its discretion, grant an extension of the period in which the penalty may be paid.

(4) The county treasurer shall remit the money received under RCW 79A.80.080(5) to the state treasurer. Money remitted under this subsection to the state treasurer must be deposited in the recreation access pass account established under RCW 79A.80.090.

Passed by the Senate February 14, 2012.
Passed by the House February 29, 2012.
Approved by the Governor March 30, 2012.
Filed in Office of Secretary of State March 30, 2012.

WASHINGTON LAWS

2012 FIRST SPECIAL SESSION

CHAPTER 1

[Second Engrossed Substitute Senate Bill 6406]

NATURAL RESOURCE MANAGEMENT

AN ACT Relating to modifying programs that provide for the protection of the state's natural resources; amending RCW 77.55.021, 77.55.151, 77.55.231, 76.09.040, 76.09.050, 76.09.150, 76.09.065, 76.09.470, 76.09.030, 43.21C.031, 43.21C.229, 82.02.020, 36.70A.490, 36.70A.500, 43.21C.110, 43.21C.095, and 90.48.260; reenacting and amending RCW 77.55.011, 76.09.060, and 76.09.020; adding new sections to chapter 77.55 RCW; adding a new section to chapter 76.09 RCW; adding a new section to chapter 43.30 RCW; adding new sections to chapter 43.21C RCW; creating new sections; prescribing penalties; providing a contingent effective date; and providing expiration dates.

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

NEW SECTION. **Sec. 1.** The legislature finds that significant opportunities exist to modify programs that provide for management and protection of the state's natural resources, including the state's forests, fish, and wildlife, in order to streamline regulatory processes and achieve program efficiencies while at the same time increasing the sustainability of program funding and maintaining current levels of natural resource protection. The legislature intends to update provisions relating to natural resource management and regulatory programs including the hydraulic project approval program, forest practices act, and state environmental policy act, in order to achieve these opportunities.

PART ONE
Hydraulic Project Approvals

Sec. 101. RCW 77.55.011 and 2010 c 210 s 26 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(12) "Ordinary high water line" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided, that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater is the line of mean higher high water and the ordinary high water line adjoining freshwater is the elevation of the mean annual flood.

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

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

(15) "Small scale prospecting and mining" means the use of only the following methods: Pans; nonmotorized sluice boxes; concentrators; and minirocker boxes for the discovery and recovery of minerals.

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

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

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

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

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

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

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

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

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

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

Sec. 102. RCW 77.55.021 and 2010 c 210 s 27 are each amended to read as follows:

(1) Except as provided in RCW 77.55.031, 77.55.051, ((~~and~~)) 77.55.041, and section 201 of this act, in the event that any person or government agency desires to undertake a hydraulic project, the person or government agency shall, before commencing work thereon, secure the approval of the department in the form of a permit as to the adequacy of the means proposed for the protection of fish life.

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

(a) General plans for the overall project;

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

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

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

(e) Payment of all applicable application fees charged by the department under section 103 of this act.

(3) The department may establish direct billing accounts or other funds transfer methods with permit applicants to satisfy the fee payment requirements of section 103 of this act.

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

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

(6) Except as provided for emergency permits in subsection (12) of this section, the department may not proceed with permit review until all fees are paid in full as required in section 103 of this act.

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

(b) Except as provided in this subsection and subsections ((~~(8), (10), and~~)) (12) through (14) and (16) of this section, the department has forty-five calendar days upon receipt of a complete application to grant or deny approval of a permit. The forty-five day requirement is suspended if:

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

(ii) The site is physically inaccessible for inspection;

(iii) The applicant requests a delay; or

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

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

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

((~~(4)~~)) (8) If the department denies approval of a permit, the department shall provide the applicant a written statement of the specific reasons why and how the proposed project would adversely affect fish life.

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

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

((~~(5)~~)) (9)(a) The permittee must demonstrate substantial progress on construction of that portion of the project relating to the permit within two years of the date of issuance.

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

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

((~~(6)~~)) (10) The department may, after consultation with the permittee, modify a permit due to changed conditions. A modification under this subsection is not subject to the fees provided under section 103 of this act. The modification is appealable as provided in subsection ((~~(4)~~)) (8) of this section. For a hydraulic project((~~s~~)) that diverts water for agricultural irrigation or stock watering purposes, ((~~or~~)) when the hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the department to show that changed conditions warrant the modification in order to protect fish life.

((~~(7)~~)) (11) A permittee may request modification of a permit due to changed conditions. The request must be processed within forty-five calendar days of receipt of the written request and payment of applicable fees under section 103 of this act. A decision by the department is appealable as provided in subsection ((~~(4)~~)) (8) of this section. For a hydraulic project((~~s~~)) that diverts

water for agricultural irrigation or stock watering purposes, ((~~or~~)) when the hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the permittee to show that changed conditions warrant the requested modification and that such a modification will not impair fish life.

((~~(8)~~)) (12)(a) The department, the county legislative authority, or the governor may declare and continue an emergency. If the county legislative authority declares an emergency under this subsection, it shall immediately notify the department. A declared state of emergency by the governor under RCW 43.06.010 shall constitute a declaration under this subsection.

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

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

((~~(9)~~)) (d) The department may not charge a person requesting an emergency permit any of the fees authorized by section 103 of this act until after the emergency permit is issued and reduced to writing.

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

((~~(10)~~)) (14) The department or the county legislative authority may determine an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to remove any obstructions, repair existing structures, restore banks, protect fish resources, or protect property. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

((~~(11)~~)) (15)(a) For any property, except for property located on a marine shoreline, that has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway, the county legislative authority may determine that a chronic danger exists. The county legislative authority shall notify the department, in writing, when it determines that a chronic danger exists. In cases of chronic danger, the department shall

issue a permit, upon request, for work necessary to abate the chronic danger by removing any obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish resources, or protecting property. Permit requests must be made and processed in accordance with subsections (2) and (((~~(3)~~))) (7) of this section.

(b) Any projects proposed to address a chronic danger identified under (a) of this subsection that satisfies the project description identified in RCW 77.55.181(1)(a)(ii) are not subject to the provisions of the state environmental policy act, chapter 43.21C RCW. However, the project is subject to the review process established in RCW 77.55.181(3) as if it were a fish habitat improvement project.

(((~~(12)~~))) (16) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

NEW SECTION. **Sec. 103.** A new section is added to chapter 77.55 RCW to read as follows:

(1) The department shall charge an application fee of one hundred fifty dollars for a hydraulic project permit or permit modification issued under RCW 77.55.021 where the project is located at or below the ordinary high water line. The application fee established under this subsection may not be charged after June 30, 2017.

(2) The following hydraulic projects are exempt from all fees listed under this section:

(a) Hydraulic projects approved under applicant-funded contracts with the department that pay for the costs of processing those projects;

(b) If sections 201 through 203 of this act are enacted into law by June 30, 2012, forest practices hydraulic projects;

(c) Pamphlet hydraulic projects;

(d) Mineral prospecting and mining activities; and

(e) Hydraulic projects occurring on farm and agricultural land, as that term is defined in RCW 84.34.020.

(3) All fees collected under this section must be deposited in the hydraulic project approval account created in section 104 of this act.

(4) The fee provisions contained in this section are prospective only. The department of fish and wildlife may not charge fees for hydraulic project permits issued under this title prior to the effective date of this section.

(5) This section expires June 30, 2017.

NEW SECTION. **Sec. 104.** A new section is added to chapter 77.55 RCW to read as follows:

(1) The hydraulic project approval account is created in the state treasury. All receipts from application fees for hydraulic project approval applications collected under section 103 of this act must be deposited into the account.

(2) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the hydraulic project approval account may be spent only after appropriation.

(3) Expenditures from the hydraulic project approval account may be used only to fund department activities relating to implementing and operating the hydraulic project approval program.

Sec. 105. RCW 77.55.151 and 2005 c 146 s 502 are each amended to read as follows:

(1) ((~~For a marina or marine terminal in existence on June 6, 1996, or a marina or marine terminal that has received a permit for its initial construction, a renewable, five-year permit shall be issued, upon request, for regular maintenance activities of the marina or marine terminal.~~

~~(2) Upon construction of a new marina or marine terminal that has received a permit, a renewable, five-year permit shall be issued, upon request, for regular maintenance activities of the marina or marine terminal.~~

~~(3) For the purposes of this section, regular maintenance activities are only those activities necessary to restore the marina or marine terminal to the conditions approved in the initial permit. These activities may include, but are not limited to, dredging, piling replacement, and float replacement.~~

~~(4)~~)) Upon application under RCW 77.55.021, the department shall issue a renewable, five-year permit to a marina or marine terminal for its regular maintenance activities identified in the application.

(2) For the purposes of this section, regular maintenance activities may include, but are not limited to:

(a) Maintenance or repair of a boat ramp, launch, or float within the existing footprint;

(b) Maintenance or repair of an existing overwater structure within the existing footprint;

(c) Maintenance or repair of boat lifts or railway launches;

(d) Maintenance or repair of pilings, including the replacement of bumper pilings;

(e) Dredging of less than fifty cubic yards;

(f) Maintenance or repair of shoreline armoring or bank protection;

(g) Maintenance or repair of wetland, riparian, or estuarine habitat; and

(h) Maintenance or repair of an existing outfall.

(3) The five-year permit must include a requirement that a fourteen-day notice be given to the department before regular maintenance activities begin.

(4) A permit under this section is subject to the application fee provided in section 103 of this act.

Sec. 106. RCW 77.55.231 and 2005 c 146 s 601 are each amended to read as follows:

(1) Conditions imposed upon a permit must be reasonably related to the project. The permit conditions must ensure that the project provides proper protection for fish life, but the department may not impose conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(2) The permit must contain provisions allowing for minor modifications to the plans and specifications without requiring reissuance of the permit.

(3) The permit must contain provisions that allow for minor modifications to the required work timing without requiring the reissuance of the permit. "Minor modifications to the required work timing" means a minor deviation from the timing window set forth in the permit when there are no spawning or incubating fish present within the vicinity of the project.

NEW SECTION. **Sec. 107.** A new section is added to chapter 77.55 RCW to read as follows:

The department shall prepare and distribute technical and educational information to the general public to assist the public in complying with the requirements of this chapter, including the changes resulting from this act.

NEW SECTION. **Sec. 108.** A new section is added to chapter 77.55 RCW to read as follows:

The department shall develop a system to provide local governments, affected tribes, and other interested parties with access to hydraulic project approval applications.

NEW SECTION. **Sec. 109.** The director of fish and wildlife shall adopt any rules required or deemed necessary to implement RCW 77.55.011, 77.55.021, 77.55.151, 77.55.231, and sections 103, 104, 107, and 108 of this act.

PART TWO
Hydraulic Project Approval and Forest Practices Integration

NEW SECTION. **Sec. 201.** A new section is added to chapter 77.55 RCW to read as follows:

(1) The requirements of this chapter do not apply to any forest practices hydraulic project, or to any activities that are associated with such a project, upon incorporation of fish protection standards adopted under this chapter into the forest practices rules and approval of technical guidance as required under RCW 76.09.040, at which time these projects are regulated under chapter 76.09 RCW.

(2) The department must continue to conduct regulatory and enforcement activities under this chapter for forest practices hydraulic projects until the forest practices board incorporates fish protection standards adopted under this chapter into the forest practices rules and approves technical guidance as required under RCW 76.09.040.

(3) By December 31, 2013, the department shall adopt rules establishing the procedures for the concurrence review process consistent with section 202 of this act. The concurrence review process must allow the department up to thirty days to review forest practices hydraulic projects meeting the criteria under section 202(2) (a) and (b) of this act for consistency with fish protection standards.

(4) The department shall notify the department of natural resources prior to beginning a rule-making process that may affect activities regulated under chapter 76.09 RCW.

(5) The department shall act consistent with appendix M of the forest and fish report, as the term "forests and fish report" is defined in RCW 76.09.020,

when modifying fish protection rules that may affect activities regulated under chapter 76.09 RCW.

(6) The department may review and provide comments on any forest practices application. The department shall review, and either verify that the review has occurred or comment on, forest practices applications that include a forest practices hydraulic project involving fish bearing waters or shorelines of the state, as that term is defined in RCW 90.58.030. Prior to commenting and whenever reasonably practicable, the department shall communicate with the applicant regarding the substance of the project.

(7) The department shall participate in effectiveness monitoring for forest practices hydraulic projects through its role in the review processes provided under WAC 222-08-160 as it existed on the effective date of this section.

NEW SECTION. **Sec. 202.** A new section is added to chapter 76.09 RCW to read as follows:

(1) The department may request information and technical assistance from the department of fish and wildlife regarding any forest practices hydraulic project regulated under this chapter.

(2) A concurrence review process is established for certain forest practices hydraulic projects, as follow:

(a) After receiving an application under RCW 76.09.050 that includes a forest practices hydraulic project involving one or more water crossing structures meeting the criteria of (b) of this subsection, the department shall provide all necessary information provided by the applicant to the department of fish and wildlife for concurrence review consistent with section 201(3) of this act. The required information must be transmitted by the department to the department of fish and wildlife as soon as practicable following the receipt of a complete application.

(b) The concurrence review process applies only to:

(i) Culvert installation or replacement, and repair at or below the bankfull width, as that term is defined in WAC 222-16-010 on the effective date of this section, in fish bearing rivers and streams that exceed five percent gradient;

(ii) Bridge construction or replacement, and repair at or below the bankfull width, of fish bearing unconfined streams; or

(iii) Fill within the flood level - 100 year, as that term is defined in WAC 222-16-010, as it existed on the effective date of this section, of fish bearing unconfined streams.

Sec. 203. RCW 76.09.040 and 2010 c 188 s 4 are each amended to read as follows:

(1)(a) Where necessary to accomplish the purposes and policies stated in RCW 76.09.010, and to implement the provisions of this chapter, the board shall adopt forest practices rules pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in this section that:

(i) Establish minimum standards for forest practices;

(ii) Provide procedures for the voluntary development of resource management plans which may be adopted as an alternative to the minimum standards in (a)(i) of this subsection if the plan is consistent with the purposes and policies stated in RCW 76.09.010 and the plan meets or exceeds the objectives of the minimum standards;

(iii) Set forth necessary administrative provisions;

(iv) Establish procedures for the collection and administration of forest practice fees as set forth by this chapter; and

(v) Allow for the development of watershed analyses.

(b) Forest practices rules pertaining to water quality protection shall be adopted by the board after reaching agreement with the director of the department of ecology or the director's designee on the board with respect ((~~thereto~~)) to these rules. All other forest practices rules shall be adopted by the board.

(c) Forest practices rules shall be administered and enforced by either the department or the local governmental entity as provided in this chapter. Such rules shall be adopted and administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

(2)(a) The board shall prepare proposed forest practices rules consistent with this section and chapter 34.05 RCW. In addition to any forest practices rules relating to water quality protection proposed by the board, the department of ecology may submit to the board proposed forest practices rules relating to water quality protection.

(b)(i) ((~~Prior to initiating the rule-making process, the proposed rules shall be submitted for review and comments to the department of fish and wildlife and to the counties of the state. After receipt of the proposed forest practices rules, the department of fish and wildlife and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed rules relating to water quality protection.~~

(~~ii) After the expiration of the thirty day period,~~)) The board ((~~and the department of ecology~~)) shall ((~~jointly~~)) hold one or more hearings on the proposed rules pursuant to chapter 34.05 RCW. Any county representative may propose specific forest practices rules relating to problems existing within the county at the hearings.

(((~~iii~~))) (ii) The board may adopt and the department of ecology may approve such proposals if they find the proposals are consistent with the purposes and policies of this chapter.

(3)(a) The board shall incorporate into the forest practices rules those fish protection standards in the rules adopted under chapter 77.55 RCW, as the rules existed on the effective date of this section, that are applicable to activities regulated under the forest practices rules. If fish protection standards are incorporated by reference, the board shall minimize administrative processes by utilizing the exception from the administrative procedures controlling significant legislative rules under RCW 34.05.328(5)(b)(iii) for the incorporation of rules adopted by other state agencies.

(b) Thereafter, the board shall incorporate into the forest practices rules any changes to those fish protection standards in the rules adopted under chapter 77.55 RCW that are: (i) Adopted consistent with section 201 of this act; and (ii) applicable to activities regulated under the forest practices rules. If fish protection standards are incorporated by reference, the board shall minimize administrative processes by utilizing the exception from the administrative procedures controlling significant legislative rules under RCW

34.05.328(5)(b)(iii) for the incorporation of rules adopted by other state agencies.

(c) The board shall establish and maintain technical guidance in the forest practices board manual, as provided under WAC 222-12-090 as it existed on the effective date of this section, to assist with implementation of the standards incorporated into the forest practices rules under this section. The guidance must include best management practices and standard techniques to ensure fish protection.

(d) The board must complete the requirements of (a) of this subsection and establish initial technical guidance under (c) of this subsection by December 31, 2013.

(4)(a) The board shall establish by rule a program for the acquisition of riparian open space and critical habitat for threatened or endangered species as designated by the board. Acquisition must be a conservation easement. Lands eligible for acquisition are forest lands within unconfined channel migration zones or forest lands containing critical habitat for threatened or endangered species as designated by the board. Once acquired, these lands may be held and managed by the department, transferred to another state agency, transferred to an appropriate local government agency, or transferred to a private nonprofit nature conservancy corporation, as defined in RCW 64.04.130, in fee or transfer of management obligation. The board shall adopt rules governing the acquisition by the state or donation to the state of such interest in lands including the right of refusal if the lands are subject to unacceptable liabilities. The rules shall include definitions of qualifying lands, priorities for acquisition, and provide for the opportunity to transfer such lands with limited warranties and with a description of boundaries that does not require full surveys where the cost of securing the surveys would be unreasonable in relation to the value of the lands conveyed. The rules shall provide for the management of the lands for ecological protection or fisheries enhancement. For the purposes of conservation easements entered into under this section, the following apply:

(i) For conveyances of a conservation easement in which the landowner conveys an interest in the trees only, the compensation must include the timber value component, as determined by the cruised volume of any timber located within the channel migration zone or critical habitat for threatened or endangered species as designated by the board, multiplied by the appropriate quality code stumpage value for timber of the same species shown on the appropriate table used for timber harvest excise tax purposes under RCW 84.33.091;

(ii) For conveyances of a conservation easement in which the landowner conveys interests in both land and trees, the compensation must include the timber value component in (a)(i) of this subsection plus such portion of the land value component as determined just and equitable by the department. The land value component must be the acreage of qualifying channel migration zone or critical habitat for threatened or endangered species as determined by the board, to be conveyed, multiplied by the average per acre value of all commercial forest land in western Washington or the average for eastern Washington, whichever average is applicable to the qualifying lands. The department must determine the western and eastern Washington averages based on the land value tables

established by RCW 84.33.140 and revised annually by the department of revenue.

(b) Subject to appropriations sufficient to cover the cost of such an acquisition program and the related costs of administering the program, the department must establish a conservation easement in land that an owner tenders for purchase; provided that such lands have been taxed as forest lands and are located within an unconfined channel migration zone or contain critical habitat for threatened or endangered species as designated by the board. Lands acquired under this section shall become riparian or habitat open space. These acquisitions shall not be deemed to trigger the compensating tax of chapters 84.33 and 84.34 RCW.

(c) Instead of offering to sell interests in qualifying lands, owners may elect to donate the interests to the state.

(d) Any acquired interest in qualifying lands by the state under this section shall be managed as riparian open space or critical habitat.

NEW SECTION. **Sec. 204.** A new section is added to chapter 77.55 RCW to read as follows:

(1) The department and the department of natural resources shall enter into and maintain a memorandum of agreement between the two agencies that describes how to implement integration of hydraulic project approvals into forest practices applications consistent with this act.

(2) The initial memorandum of agreement required under subsection (1) of this section between the two departments must be executed by December 31, 2012. The memorandum of agreement may be amended as agreed to by the two departments.

(3) The department and the department of natural resources shall enter into and maintain an interagency contract to ensure implementation of this act and the memorandum of agreement between the two agencies required under subsection (1) of this section. The contract must include funding provisions for the department's review of forest practices hydraulic projects.

Sec. 205. RCW 76.09.050 and 2011 c 207 s 1 are each amended to read as follows:

(1) The board shall establish by rule which forest practices shall be included within each of the following classes:

Class I: Minimal or specific forest practices that have no direct potential for damaging a public resource and that may be conducted without submitting an application or a notification except that when the regulating authority is transferred to a local governmental entity, those Class I forest practices that involve timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, are processed as Class IV forest practices, but are not subject to environmental review under chapter 43.21C RCW;

Class II: Forest practices which have a less than ordinary potential for damaging a public resource that may be conducted without submitting an application and may begin five calendar days, or such lesser time as the department may determine, after written notification by the operator, in the manner, content, and form as prescribed by the department, is received by the department. However, the work may not begin until all forest practice fees

required under RCW 76.09.065 have been received by the department. Class II shall not include forest practices:

(a) On forest lands that are being converted to another use;

(b) ((~~Which require approvals under the provisions of the hydraulics act, RCW 77.55.021;~~

~~(c)~~)) Within "shorelines of the state" as defined in RCW 90.58.030;

((~~(d)~~)) (c) Excluded from Class II by the board; or

((~~(e)~~)) (d) Including timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, which are Class IV;

Class III: Forest practices other than those contained in Class I, II, or IV. A Class III application must be approved or disapproved by the department according to the following timelines; however, the applicant may not begin work on the forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department:

(a) Within thirty calendar days from the date the department receives the application((~~. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department~~)) if the application is not subject to concurrence review by the department of fish and wildlife under section 202 of this act; and

(b) Within thirty days of the completion of the concurrence review by the department of fish and wildlife if the application is subject to concurrence review by the department of fish and wildlife under section 202 of this act;

Class IV: Forest practices other than those contained in Class I or II:

(a) On forest lands that are being converted to another use;

(b) On lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development;

(c) That involve timber harvesting or road construction on forest lands that are contained within "urban growth areas," designated pursuant to chapter 36.70A RCW, except where the forest landowner provides:

(i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest product operations for ten years, accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 or 84.34 RCW; or

(ii) A conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application; and/or

(d) Which have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW. Such evaluation shall be made within ((~~ten days from the date the department receives the application: PROVIDED, That~~)) the timelines established in RCW 43.21C.037; however, nothing herein shall be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action pursuant to a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. Unless the application is subject to concurrence review by the department of fish and wildlife under section 202 of this act, a Class IV application must be approved or disapproved by the department within

thirty calendar days from the date the department receives the application((~~, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty calendar days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period~~)). If a Class IV application is subject to concurrence review by the department of fish and wildlife under section 202 of this act, then the application must be approved or disapproved by the department within thirty calendar days from the completion of the concurrence review by the department of fish and wildlife. However, the department may extend the timelines applicable to the approval or disapproval of the application an additional thirty calendar days if the department determines that a detailed statement must be made, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such a period. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department.

Forest practices under Classes I, II, and III are exempt from the requirements for preparation of a detailed statement under the state environmental policy act.

(2) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, no Class II, Class III, or Class IV forest practice shall be commenced or continued after January 1, 1975, unless the department has received a notification with regard to a Class II forest practice or approved an application with regard to a Class III or Class IV forest practice containing all information required by RCW 76.09.060 as now or hereafter amended. However, in the event forest practices regulations necessary for the scheduled implementation of this chapter and RCW 90.48.420 have not been adopted in time to meet such schedules, the department shall have the authority to regulate forest practices and approve applications on such terms and conditions consistent with this chapter and RCW 90.48.420 and the purposes and policies of RCW 76.09.010 until applicable forest practices regulations are in effect.

(3) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, if a notification or application is delivered in person to the department by the operator or the operator's agent, the department shall immediately provide a dated receipt thereof. In all other cases, the department shall immediately mail a dated receipt to the operator.

(4) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, forest practices shall be conducted in accordance with the forest practices regulations, orders and directives as authorized by this chapter or the forest practices regulations, and the terms and conditions of any approved applications.

(5) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, the department of natural resources shall notify the applicant in writing of either its approval of the application or its disapproval of the application and the specific manner in which the application fails to comply with the provisions of this section or with the forest practices regulations. Except as provided otherwise in this section, if the

department fails to either approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may be commenced: PROVIDED, That this provision shall not apply to applications which are neither approved nor disapproved pursuant to the provisions of subsection (7) of this section: PROVIDED, FURTHER, That if seasonal field conditions prevent the department from being able to properly evaluate the application, the department may issue an approval conditional upon further review within sixty days((~~: PROVIDED, FURTHER, That the department shall have until April 1, 1975, to approve or disapprove an application involving forest practices allowed to continue to April 1, 1975, under the provisions of subsection (2) of this section~~)). Upon receipt of any notification or any satisfactorily completed application the department shall in any event no later than two business days after such receipt transmit a copy to the departments of ecology and fish and wildlife, and to the county, city, or town in whose jurisdiction the forest practice is to be commenced. Any comments by such agencies shall be directed to the department of natural resources.

(6) For those forest practices regulated by the board and the department, if the county, city, or town believes that an application is inconsistent with this chapter, the forest practices regulations, or any local authority consistent with RCW 76.09.240 as now or hereafter amended, it may so notify the department and the applicant, specifying its objections.

(7) For those forest practices regulated by the board and the department, the department shall not approve portions of applications to which a county, city, or town objects if:

(a) The department receives written notice from the county, city, or town of such objections within fourteen business days from the time of transmittal of the application to the county, city, or town, or one day before the department acts on the application, whichever is later; and

(b) The objections relate to forest lands that are being converted to another use.

The department shall either disapprove those portions of such application or appeal the county, city, or town objections to the appeals board. If the objections related to (b) of this subsection are based on local authority consistent with RCW 76.09.240 as now or hereafter amended, the department shall disapprove the application until such time as the county, city, or town consents to its approval or such disapproval is reversed on appeal. The applicant shall be a party to all department appeals of county, city, or town objections. Unless the county, city, or town either consents or has waived its rights under this subsection, the department shall not approve portions of an application affecting such lands until the minimum time for county, city, or town objections has expired.

(8) For those forest practices regulated by the board and the department, in addition to any rights under the above paragraph, the county, city, or town may appeal any department approval of an application with respect to any lands within its jurisdiction. The appeals board may suspend the department's approval in whole or in part pending such appeal where there exists potential for immediate and material damage to a public resource.

(9) For those forest practices regulated by the board and the department, appeals under this section shall be made to the appeals board in the manner and time provided in RCW 76.09.205. In such appeals there shall be no presumption of correctness of either the county, city, or town or the department position.

(10) For those forest practices regulated by the board and the department, the department shall, within four business days notify the county, city, or town of all notifications, approvals, and disapprovals of an application affecting lands within the county, city, or town, except to the extent the county, city, or town has waived its right to such notice.

(11) For those forest practices regulated by the board and the department, a county, city, or town may waive in whole or in part its rights under this section, and may withdraw or modify any such waiver, at any time by written notice to the department.

(12) Notwithstanding subsections (2) through (5) of this section, forest practices applications or notifications are not required for exotic insect and disease control operations conducted in accordance with RCW 76.09.060(8) where eradication can reasonably be expected.

Sec. 206. RCW 76.09.060 and 2007 c 480 s 11 and 2007 c 106 s 1 are each reenacted and amended to read as follows:

(1) The department shall prescribe the form and contents of the notification and application. The forest practices rules shall specify by whom and under what conditions the notification and application shall be signed or otherwise certified as acceptable. Activities conducted by the department or a contractor under the direction of the department under the provisions of RCW 76.04.660, shall be exempt from the landowner signature requirement on any forest practices application required to be filed. The application or notification shall be delivered in person to the department, sent by first-class mail to the department or electronically filed in a form defined by the department. The form for electronic filing shall be readily convertible to a paper copy, which shall be available to the public pursuant to chapter 42.56 RCW. The information required may include, but is not limited to:

(a) Name and address of the forest landowner, timber owner, and operator;

(b) Description of the proposed forest practice or practices to be conducted;

(c) Legal description and tax parcel identification numbers of the land on which the forest practices are to be conducted;

(d) Planimetric and topographic maps showing location and size of all lakes and streams and other public waters in and immediately adjacent to the operating area and showing all existing and proposed roads and major tractor roads;

(e) Description of the silvicultural, harvesting, or other forest practice methods to be used, including the type of equipment to be used and materials to be applied;

(f) For an application or notification submitted on or after the effective date of section 202 of this act that includes a forest practices hydraulic project, plans and specifications for the forest practices hydraulic project to ensure the proper protection of fish life;

(g) Proposed plan for reforestation and for any revegetation necessary to reduce erosion potential from roadsides and yarding roads, as required by the forest practices rules;

((~~(g)~~)) (h) Soil, geological, and hydrological data with respect to forest practices;

((~~(h)~~)) (i) The expected dates of commencement and completion of all forest practices specified in the application;

((~~(i)~~)) (j) Provisions for continuing maintenance of roads and other construction or other measures necessary to afford protection to public resources;

((~~(j)~~)) (k) An affirmation that the statements contained in the notification or application are true; and

((~~(k)~~)) (l) All necessary application or notification fees.

(2) Long range plans may be submitted to the department for review and consultation.

(3) The application for a forest practice or the notification of a forest practice is subject to the reforestation requirement of RCW 76.09.070.

(a) If the application states that any land will be or is intended to be converted:

(i) The reforestation requirements of this chapter and of the forest practices rules shall not apply if the land is in fact converted unless applicable alternatives or limitations are provided in forest practices rules issued under RCW 76.09.070;

(ii) Completion of such forest practice operations shall be deemed conversion of the lands to another use for purposes of chapters 84.33 and 84.34 RCW unless the conversion is to a use permitted under a current use tax agreement permitted under chapter 84.34 RCW;

(iii) The forest practices described in the application are subject to applicable county, city, town, and regional governmental authority permitted under RCW 76.09.240 as well as the forest practices rules.

(b) Except as provided elsewhere in this section, if the landowner harvests without an approved application or notification or the landowner does not state that any land covered by the application or notification will be or is intended to be converted, and the department or the county, city, town, or regional governmental entity becomes aware of conversion activities to a use other than commercial timber operations, as that term is defined in RCW 76.09.020, then the department shall send to the department of ecology and the appropriate county, city, town, and regional governmental entities the following documents:

(i) A notice of a conversion to nonforestry use;

(ii) A copy of the applicable forest practices application or notification, if any; and

(iii) Copies of any applicable outstanding final orders or decisions issued by the department related to the forest practices application or notification.

(c) Failure to comply with the reforestation requirements contained in any final order or decision shall constitute a removal of designation under the provisions of RCW 84.33.140, and a change of use under the provisions of RCW 84.34.080, and, if applicable, shall subject such lands to the payments and/or penalties resulting from such removals or changes.

(d) Conversion to a use other than commercial forest product operations within six years after approval of the forest practices application or notification without the consent of the county, city, or town shall constitute a violation of each of the county, municipal city, town, and regional authorities to which the

forest practice operations would have been subject if the application had stated an intent to convert.

(e) Land that is the subject of a notice of conversion to a nonforestry use produced by the department and sent to the department of ecology and a local government under this subsection is subject to the development prohibition and conditions provided in RCW 76.09.460.

(f) Landowners who have not stated an intent to convert the land covered by an application or notification and who decide to convert the land to a nonforestry use within six years of receiving an approved application or notification must do so in a manner consistent with RCW 76.09.470.

(g) The application or notification must include a statement requiring an acknowledgment by the forest landowner of his or her intent with respect to conversion and acknowledging that he or she is familiar with the effects of this subsection.

(4) Whenever an approved application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department two days before the commencement of actual operations.

(5) Before the operator commences any forest practice in a manner or to an extent significantly different from that described in a previously approved application or notification, there shall be submitted to the department a new application or notification form in the manner set forth in this section.

(6)(a) Except as provided in RCW 76.09.350(4), the notification to or the approval given by the department to an application to conduct a forest practice shall be effective for a term of ((~~two~~)) three years from the date of approval or notification ((~~and shall not be renewed unless a new application is filed and approved or a new notification has been filed~~)).

(b) A notification or application may be renewed for an additional three-year term by the filing and approval of a notification or application, as applicable, prior to the expiration of the original application or notification. A renewal application or notification is subject to the forest practices rules in effect at the time the renewal application or notification is filed. Nothing in this section precludes the applicant from applying for a new application or notification after the renewal period has lapsed.

(c) At the option of the applicant, an application or notification may be submitted to cover a single forest practice or a number of forest practices within reasonable geographic or political boundaries as specified by the department. An application or notification that covers more than one forest practice may have an effective term of more than ((~~two~~)) three years.

(d) The board shall adopt rules that establish standards and procedures for approving an application or notification that has an effective term of more than ((~~two~~)) three years. Such rules shall include extended time periods for application or notification approval or disapproval. ((~~On an approved application with a term of more than two years, the applicant shall inform the department before commencing operations~~)) The department may require the applicant to provide advance notice before commencing operations on an approved application or notification.

(7) Notwithstanding any other provision of this section, no prior application or notification shall be required for any emergency forest practice necessitated by fire, flood, windstorm, earthquake, or other emergency as defined by the board, but the operator shall submit an application or notification, whichever is applicable, to the department within forty-eight hours after commencement of such practice or as required by local regulations.

(8) Forest practices applications or notifications are not required for forest practices conducted to control exotic forest insect or disease outbreaks, when conducted by or under the direction of the department of agriculture in carrying out an order of the governor or director of the department of agriculture to implement pest control measures as authorized under chapter 17.24 RCW, and are not required when conducted by or under the direction of the department in carrying out emergency measures under a forest health emergency declaration by the commissioner of public lands as provided in RCW 76.06.130.

(a) For the purposes of this subsection, exotic forest insect or disease has the same meaning as defined in RCW 76.06.020.

(b) In order to minimize adverse impacts to public resources, control measures must be based on integrated pest management, as defined in RCW 17.15.010, and must follow forest practices rules relating to road construction and maintenance, timber harvest, and forest chemicals, to the extent possible without compromising control objectives.

(c) Agencies conducting or directing control efforts must provide advance notice to the appropriate regulatory staff of the department of the operations that would be subject to exemption from forest practices application or notification requirements.

(d) When the appropriate regulatory staff of the department are notified under (c) of this subsection, they must consult with the landowner, interested agencies, and affected tribes, and assist the notifying agencies in the development of integrated pest management plans that comply with forest practices rules as required under (b) of this subsection.

(e) Nothing under this subsection relieves agencies conducting or directing control efforts from requirements of the federal clean water act as administered by the department of ecology under RCW 90.48.260.

(f) Forest lands where trees have been cut as part of an exotic forest insect or disease control effort under this subsection are subject to reforestation requirements under RCW 76.09.070.

(g) The exemption from obtaining approved forest practices applications or notifications does not apply to forest practices conducted after the governor, the director of the department of agriculture, or the commissioner of public lands have declared that an emergency no longer exists because control objectives have been met, that there is no longer an imminent threat, or that there is no longer a good likelihood of control.

Sec. 207. RCW 76.09.150 and 2000 c 11 s 7 are each amended to read as follows:

(1) The department shall make inspections of forest lands, before, during, and after the conducting of forest practices as necessary for the purpose of ensuring compliance with this chapter ((~~and~~)), the forest practices rules, including forest practices rules incorporated under RCW 76.09.040(3), and to

ensure that no material damage occurs to the natural resources of this state as a result of ((~~such~~)) forest practices.

(2) Any duly authorized representative of the department shall have the right to enter upon forest land at any reasonable time to enforce the provisions of this chapter and the forest practices rules.

(3) The department or the department of ecology may apply for an administrative inspection warrant to either Thurston county superior court, or the superior court in the county in which the property is located. An administrative inspection warrant may be issued where:

(a) The department has attempted an inspection of forest lands under this chapter to ensure compliance with this chapter and the forest practices rules or to ensure that no potential or actual material damage occurs to the natural resources of this state, and access to all or part of the forest lands has been actually or constructively denied; or

(b) The department has reasonable cause to believe that a violation of this chapter or of rules adopted under this chapter is occurring or has occurred.

(4) In connection with any watershed analysis, any review of a pending application by an identification team appointed by the department, any compliance studies, any effectiveness monitoring, or other research that has been agreed to by a landowner, the department may invite representatives of other agencies, tribes, and interest groups to accompany a department representative and, at the landowner's election, the landowner, on any such inspections. Reasonable efforts shall be made by the department to notify the landowner of the persons being invited onto the property and the purposes for which they are being invited.

NEW SECTION. **Sec. 208.** A new section is added to chapter 43.30 RCW to read as follows:

(1) By December 31, 2013, the department must make examples of complete, high quality forest practices applications and the resulting approvals readily available to the public on its internet site, as well as the internet site of the office of regulatory assistance established in RCW 43.42.010. The department must maximize assistance to the public and interested parties by seeking to make readily available examples from forest practices that generate significant permitting activity or frequent questions.

(2) The department must regularly review and update the examples required to be made available on the internet under subsection (1) of this section.

(3) The department must obtain the written permission of an applicant before making publicly available that applicant's application or approval under this section and must work cooperatively with the applicant to ensure that no personal or proprietary information is made available.

Sec. 209. RCW 76.09.065 and 2000 c 11 s 5 are each amended to read as follows:

(1) ((~~Effective July 1, 1997,~~)) An applicant shall pay an application fee ((~~and a recording fee~~)), if applicable, at the time an application or notification is submitted to the department or to the local governmental entity as provided in this chapter.

(2) ((~~For applications and notifications submitted to the department, the application fee~~)) (a) If sections 201 through 203 and 206 of this act are not

enacted into law by June 30, 2012, then the fee for applications and notifications submitted to the department shall be fifty dollars for class II, III, and IV forest practices applications or notifications relating to the commercial harvest of timber. However, the fee shall be five hundred dollars for class IV forest practices applications on lands being converted to other uses or on lands which are not to be reforested because of the likelihood of future conversion to urban development or on lands that are contained within "urban growth areas," designated pursuant to chapter 36.70A RCW, except the fee shall be fifty dollars on those lands where the forest landowner provides:

(((~~(a)~~))) (i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest product operations for ten years, accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 RCW; or

(((~~(b)~~))) (ii) A conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the forest practices application.

(b)(i) If sections 201 through 203 and 206 of this act are enacted into law by June 30, 2012, then:

(A) The fee for applications and notifications relating to the commercial harvest of timber submitted to the department shall be one hundred dollars for class II applications and notifications, class III applications, and class IV forest practices that have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW, when the application or notification is submitted by a landowner who satisfies the definition of small forest landowner provided in RCW 76.09.450 and the application or notification applies to a single contiguous ownership consisting of one or more parcels;

(B) The fee for applications and notifications relating to the commercial harvest of timber submitted to the department shall be one hundred fifty dollars for class II applications and notifications, class III applications, and class IV forest practices that have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW, when the application or notification is submitted by a landowner who does not satisfy the criteria for a reduced application fee as provided in (b)(i)(A) of this subsection (2); and

(C) The fee shall be one thousand five hundred dollars for class IV forest practices applications on lands being converted to other uses or on lands that are not to be reforested because of the likelihood of future conversion to urban development or on lands that are contained within urban growth areas, designated pursuant to chapter 36.70A RCW, except the fee shall be the same as for a class III forest practices application where the forest landowner provides:

(I) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest product operations for ten years, accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 RCW; or

(II) A conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the forest practices application.

(ii) If the board has not incorporated fish protection standards adopted under chapter 77.55 RCW into the forest practices rules and approved technical guidance as required under RCW 76.09.040 by December 31, 2013, the fee for applications and notifications submitted to the department shall be as provided under (a) of this subsection until the rules are adopted and technical guidance approved.

(3) The forest practices application account is created in the state treasury. Moneys in the account may be spent only after appropriation. All money collected from fees under ((~~this~~)) subsection (2) of this section shall be deposited in the ((~~state general fund~~)) forest practices application account for the purposes of implementing this chapter, chapter 76.13 RCW, and Title 222 WAC.

(((~~(3)~~))) (4) For applications submitted to ((~~the~~)) a local governmental entity as provided in this chapter, the fee shall be ((~~five hundred dollars for class IV forest practices on lands being converted to other uses or lands that are contained within "urban growth areas," designated pursuant to chapter 36.70A RCW, except as otherwise provided in this section, unless a different fee is otherwise provided~~)) determined, collected, and retained by the local governmental entity.

(((~~(4) Recording fees shall be as provided in chapter 36.18 RCW.~~

~~(5) An application fee under subsection (2) of this section shall be refunded or credited to the applicant if either the application or notification is disapproved by the department or the application or notification is withdrawn by the applicant due to restrictions imposed by the department.~~))

Sec. 210. RCW 76.09.470 and 2007 c 106 s 3 are each amended to read as follows:

(1) If a landowner who did not state an intent to convert his or her land to a nonforestry use decides to convert his or her land to a nonforestry use within six years of receiving an approved forest practices application or notification under this chapter, the landowner must:

(a) Stop all forest practices activities on the parcels subject to the proposed land use conversion to a nonforestry use;

(b) Contact the department of ecology and the applicable county, city, town, or regional governmental entity to begin the permitting process; and

(c) Notify the department ((~~and~~)), withdraw any applicable applications or notifications ((~~or request~~)), and submit a new application for the conversion. The fee for a new application for conversion under this subsection (1)(c) is the difference between the applicable fee for the new application under RCW 76.09.065 and the fee previously paid for the original application or notification, which must be deposited in the forest practices application account created in RCW 76.09.065.

(2) Upon being contacted by a landowner under this section, the county, city, town, or regional governmental entity must:

(a) Notify the department and request from the department the status of any applicable forest practices applications, notifications, or final orders or decisions; and

(b) Complete the following activities:

(i) Require that the landowner be in full compliance with chapter 43.21C RCW, if applicable;

(ii) Receive notification from the department that the landowner has resolved any outstanding final orders or decisions issued by the department; and

(iii) Make a determination as to whether or not the condition of the land in question is in full compliance with local ordinances and regulations. If full compliance is not found, a mitigation plan to address violations of local ordinances or regulations must be required for the parcel in question by the county, city, town, or regional governmental entity. Required mitigation plans must be prepared by the landowner and approved by the county, city, town, or regional governmental entity. Once approved, the mitigation plan must be implemented by the landowner. Mitigation measures that may be required include, but are not limited to, revegetation requirements to plant and maintain trees of sufficient maturity and appropriate species composition to restore critical area and buffer function or to be in compliance with applicable local government regulations.

Sec. 211. RCW 76.09.030 and 2008 c 46 s 1 are each amended to read as follows:

(1) There is hereby created the forest practices board of the state of Washington as an agency of state government consisting of members as follows:

(a) The commissioner of public lands or the commissioner's designee;

(b) The director of the department of ((~~community, trade, and economic development~~)) commerce or the director's designee;

(c) The director of the department of agriculture or the director's designee;

(d) The director of the department of ecology or the director's designee;

(e) The director of the department of fish and wildlife or the director's designee;

(f) An elected member of a county legislative authority appointed by the governor((~~: PROVIDED, That such~~)). However, the county member's service on the board shall be conditioned on the member's continued service as an elected county official;

(g) One member representing a timber products union, appointed by the governor from a list of three names submitted by a timber labor coalition affiliated with a statewide labor organization that represents a majority of the timber product unions in the state; and

(h) Six members of the general public appointed by the governor, one of whom shall be a small forest landowner who actively manages his or her land, and one of whom shall be an independent logging contractor.

(2) ((~~The director of the department of fish and wildlife's service on the board may be terminated two years after August 18, 1999, if the legislature finds that after two years the department has not made substantial progress toward integrating the laws, rules, and programs governing forest practices, chapter 76.09 RCW, and the laws, rules, and programs governing hydraulic projects, chapter 77.55 RCW. Such a finding shall be based solely on whether the department of fish and wildlife makes substantial progress as defined in this subsection, and will not be based on other actions taken as a member of the board. Substantial progress shall include recommendations to the legislature for closer integration of the existing rule-making authorities of the board and the department of fish and wildlife, and closer integration of the forest practices and hydraulics permitting processes, including exploring the potential for a consolidated permitting process. These recommendations shall be designed to~~

~~resolve problems currently associated with the existing dual regulatory and permitting processes.~~

~~(3)~~)) The members of the initial board appointed by the governor shall be appointed so that the term of one member shall expire December 31, 1975, the term of one member shall expire December 31, 1976, the term of one member shall expire December 31, 1977, the terms of two members shall expire December 31, 1978, and the terms of two members shall expire December 31, 1979. Thereafter, each member shall be appointed for a term of four years. Vacancies on the board shall be filled in the same manner as the original appointments. Each member of the board shall continue in office until his or her successor is appointed and qualified. The commissioner of public lands or the commissioner's designee shall be the chair of the board.

(((~~(4)~~))) (3) The board shall meet at such times and places as shall be designated by the chair or upon the written request of the majority of the board. The principal office of the board shall be at the state capital.

(((~~(5)~~))) (4) Members of the board, except public employees and elected officials, shall be compensated in accordance with RCW 43.03.250. Each member shall be entitled to reimbursement for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060.

(((~~(6)~~))) (5) The board may employ such clerical help and staff pursuant to chapter 41.06 RCW as is necessary to carry out its duties.

Sec. 212. RCW 76.09.020 and 2010 c 210 s 19 and 2010 c 188 s 6 are each reenacted and amended to read as follows:

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

(1) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Appeals board" means the pollution control hearings board created by RCW 43.21B.010.

(3) "Application" means the application required pursuant to RCW 76.09.050.

(4) "Aquatic resources" includes water quality, salmon, other species of the vertebrate classes Cephalaspidomorphi and Osteichthyes identified in the forests and fish report, the Columbia torrent salamander *(Rhyacotriton kezeri)*, the Cascade torrent salamander *(Rhyacotriton cascadae)*, the Olympic torrent salamander *(Rhyacotriton olympian)*, the Dunn's salamander *(Plethodon dunni)*, the Van Dyke's salamander *(Plethodon vandyke)*, the tailed frog *(Ascaphus truei)*, and their respective habitats.

(5) "Board" means the forest practices board created in RCW 76.09.030.

(6) "Commissioner" means the commissioner of public lands.

(7) "Contiguous" means land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right-of-way shall be considered contiguous.

(8) "Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing and as may be defined by forest practices rules.

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

(10) "Department" means the department of natural resources.

(11) "Ecosystem services" means the benefits that the public enjoys as a result of natural processes and biological diversity.

(12) "Ecosystem services market" means a system in which providers of ecosystem services can access financing or market capital to protect, restore, and maintain ecological values, including the full spectrum of regulatory, quasiregulatory, and voluntary markets.

(13) "Fish passage barrier" means any artificial instream structure that impedes the free passage of fish.

(14) "Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, the term "forest land" excludes:

(a) Residential home sites, which may include up to five acres; and

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

(15) "Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

(16) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

(a) Road and trail construction, including forest practices hydraulic projects that include water crossing structures, and associated activities and maintenance;

(b) Harvesting, final and intermediate;

(c) Precommercial thinning;

(d) Reforestation;

(e) Fertilization;

(f) Prevention and suppression of diseases and insects;

(g) Salvage of trees; and

(h) Brush control.

"Forest practice" shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

(17) "Forest practices rules" means any rules adopted pursuant to RCW 76.09.040.

(18) "Forest road," as it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, means a road or road segment that crosses land that meets the definition of forest land, but excludes residential access roads.

(19) "Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than fifteen years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees, but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(20) "Forests and fish report" means the forests and fish report to the board dated April 29, 1999.

(21) "Operator" means any person engaging in forest practices except an employee with wages as his or her sole compensation.

(22) "Person" means any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature.

(23) "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

(24) "Small forest landowner" has the same meaning as defined in RCW 76.09.450.

(25) "Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, "timber" does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(26) "Timber owner" means any person having all or any part of the legal interest in timber. Where such timber is subject to a contract of sale, "timber owner" shall mean the contract purchaser.

(27) "Unconfined channel migration zone" means the area within which the active channel of an unconfined stream is prone to move and where the movement would result in a potential near-term loss of riparian forest adjacent to the stream. Sizeable islands with productive timber may exist within the zone.

(28) "Unconfined stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex floodplain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

(29) "Forest practices hydraulic project" means a hydraulic project, as defined under RCW 77.55.011, that requires a forest practices application or notification under this chapter.

(30) "Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities.

NEW SECTION. **Sec. 213.** A new section is added to chapter 43.21C RCW to read as follows:

The incorporation of fish protection standards adopted under chapter 77.55 RCW into the forest practices rules as required under RCW 76.09.040(3) is exempt from compliance with this chapter.

NEW SECTION. **Sec. 214.** (1) The departments of natural resources and fish and wildlife must jointly provide a report to the appropriate committees of the legislature containing findings and any recommendations relating to the regulatory integration of hydraulic projects and forest practices as provided in this act, including:

(a) Progress made in implementing the integration required under this act, including rule incorporation and development of forest practices board manual guidance;

(b) An update on and potential for permitting efficiencies in addition to the integration required under this act;

(c) The process for and outcomes from review of forest practices applications that include forest practices hydraulic projects by the department of fish and wildlife; and

(d) Compliance monitoring for forest practices hydraulic projects through the review processes provided under WAC 222-08-160 as it existed on the effective date of this section.

(2) The departments of natural resources and fish and wildlife must provide an initial report by September 1, 2014, and a second report by September 1, 2016.

(3) This section expires December 31, 2016.

NEW SECTION. **Sec. 215.** Sections 202 and 205 of this act take effect on the date the forest practices board incorporates fish protection standards adopted under chapter 77.55 RCW into the forest practices rules and approves technical guidance as required under RCW 76.09.040. The department of natural resources must provide written notice of the effective date of these sections to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department of natural resources.

NEW SECTION. **Sec. 216.** Nothing in this act affects any rules, processes, or procedures of the department of fish and wildlife and the department of natural resources existing on the effective date of this section that provide for regulatory integration of hydraulic projects and forest practices for projects in nonfish-bearing waters.

NEW SECTION. **Sec. 217.** Nothing in this act authorizes the department of fish and wildlife to assume authority over approval, disapproval, conditioning, or enforcement of applications or notifications submitted under chapter 76.09 RCW.

NEW SECTION. **Sec. 218.** Nothing in this act affects the jurisdiction or other authority of a federally recognized Indian tribe within the boundary of its reservation or on other tribally owned lands.

NEW SECTION. **Sec. 219.** 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.

PART THREE
State Environmental Policy Act and Local Development Regulations

NEW SECTION. **Sec. 301.** (1) The legislature recognizes that the rule-based categorical exemption thresholds to chapter 43.21C RCW, found in WAC 197-11-800, have not been updated in recent years, and should be reviewed in light of the increased environmental protections in place under chapters 36.70A and 90.58 RCW, and other laws. It is the intent of the legislature to direct the department of ecology to conduct two phases of rule making over the next two years to increase the thresholds for these categorical exemptions.

(2) By December 31, 2012, the department of ecology shall increase the rule-based categorical exemptions to chapter 43.21C RCW found in WAC 197-11-800 and update the environmental checklist found in WAC 197-11-960. In updating the categorical exemptions, the department of ecology must:

(a) At a minimum, increase the existing maximum threshold levels for the following project types:

(i) The construction or location of single-family residential developments;

(ii) The construction or location of multifamily residential developments;

(iii) The construction of an agricultural structure, other than a feed lot, that is similar to the following: A barn, a loafing shed, a farm equipment storage building, or a produce storing or packing structure;

(iv) The construction of the following, including any associated parking areas or facilities: An office, a school, a commercial building, a recreational building, a service building, or a storage building;

(v) Landfilling or excavation activities; and

(vi) The installation of an electric facility, lines, equipment, or appurtenances, other than substations.

(b) Establish maximum exemption levels for action types that differ based on whether the project is proposed to occur in:

(i) An incorporated city;

(ii) An unincorporated area within an urban growth area;

(iii) An unincorporated area outside of an urban growth area but within a county planning under chapter 36.70A RCW; or

(iv) An unincorporated area within a county not planning under chapter 36.70A RCW.

(c) In updating the environmental checklist found in WAC 197-11-960, the department of ecology shall:

(i) Improve efficiency of the environmental checklist; and

(ii) Not include any new subjects into the scope of the checklist, including climate change and greenhouse gases.

(d) Until the completion of the rule making required under this section, a city or county may apply the highest categorical exemption levels authorized under WAC 197-11-800 to any action, regardless if the city or county with jurisdiction has exercised its authority to raise the exemption levels above the established minimums, unless the city or county with jurisdiction passes an ordinance or resolution that lowers the exemption levels to a level below the allowed maximum but not less than the default minimum levels detailed in WAC 197-11-800.

(3)(a) By December 31, 2013, the department of ecology shall:

(i) Update, but not decrease, the thresholds for all other project actions not specified in subsection (2) of this section;

(ii) Propose methods for integrating the state environmental policy act process with provisions of the growth management act, chapter 36.70A RCW, including consideration of ways to revise WAC 197-11-210 through 197-11-232 to further the goals of RCW 43.21C.240; and

(iii) Create categorical exemptions for minor code amendments for which review under chapter 43.21C RCW would not be required because they do not lessen environmental protection.

(b) During this process, the department of ecology may also review and update the thresholds resulting from the 2012 rule-making process outlined in subsection (2) of this section.

(4)(a) The department of ecology shall convene an advisory committee consisting of members representing, at minimum, cities, counties, business interests, environmental interests, agricultural interests, cultural resources interests, state agencies, and tribal governments to:

(i) Assist in updating the environmental checklist and updating the thresholds for other project actions for both rule-making processes under subsections (2) and (3) of this section;

(ii) Ensure that state agencies and other interested parties can receive notice about projects of interest through notice under chapter 43.21C RCW and means other than chapter 43.21C RCW; and

(iii) Ensure that federally recognized tribes receive notice about projects that impact tribal interests through notice under chapter 43.21C RCW and means other than chapter 43.21C RCW.

(b) Advisory committee members must have direct experience with the implementation or application of the state environmental policy act.

(5) This section expires July 31, 2014.

Sec. 302. RCW 43.21C.031 and 1995 c 347 s 203 are each amended to read as follows:

(1) An environmental impact statement (the detailed statement required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for legislation and other major actions having a probable significant, adverse environmental impact. The environmental impact statement may be combined with the recommendation or report on the proposal or issued as a separate document. The substantive decisions or recommendations shall be clearly identifiable in the combined document. Actions categorically exempt under RCW 43.21C.110(1)(a) and section 307 of this act do not require environmental review or the preparation of an environmental impact statement under this chapter. ((~~In a county, city, or town planning under RCW 36.70A.040, a planned action, as provided for in subsection (2) of this section, does not require a threshold determination or the preparation of an environmental impact statement under this chapter, but is subject to environmental review and mitigation as provided in this chapter.~~))

(2) An environmental impact statement is required to analyze only those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed. The responsible official shall consult with agencies and the public to identify such impacts and limit the scope of an environmental impact statement. The subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate sections of an environmental impact statement.

Discussions of significant short-term and long-term environmental impacts, significant irrevocable commitments of natural resources, significant alternatives including mitigation measures, and significant environmental impacts which cannot be mitigated should be consolidated or included, as applicable, in those sections of an environmental impact statement where the responsible official decides they logically belong.

((~~(2)(a) For purposes of this section, a planned action means one or more types of project action that:~~

~~(i) Are designated planned actions by an ordinance or resolution adopted by a county, city, or town planning under RCW 36.70A.040;~~

~~(ii) Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with (A) a comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or (B) a fully contained community, a master planned resort, a master planned development, or a phased project;~~

~~(iii) Are subsequent or implementing projects for the proposals listed in (a)(ii) of this subsection;~~

~~(iv) Are located within an urban growth area, as defined in RCW 36.70A.030;~~

~~(v) Are not essential public facilities, as defined in RCW 36.70A.200; and~~

~~(vi) Are consistent with a comprehensive plan adopted under chapter 36.70A RCW.~~

~~(b) A county, city, or town shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the county, city, or town and may limit a planned action to a time period identified in the environmental impact statement or the ordinance or resolution adopted under this subsection.~~))

NEW SECTION. **Sec. 303.** A new section is added to chapter 43.21C RCW to read as follows:

(1) For purposes of this chapter, a planned action means one or more types of development or redevelopment that meet the following criteria:

(a) Are designated as planned actions by an ordinance or resolution adopted by a county, city, or town planning under RCW 36.70A.040;

(b) Have had the significant impacts adequately addressed in an environmental impact statement under the requirements of this chapter in conjunction with, or to implement, a comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or a fully contained community, a master planned resort, a master planned development, or a phased project;

(c) Have had project level significant impacts adequately addressed in an environmental impact statement unless the impacts are specifically deferred for consideration at the project level pursuant to subsection (3)(b) of this section;

(d) Are subsequent or implementing projects for the proposals listed in (b) of this subsection;

(e) Are located within an urban growth area designated pursuant to RCW 36.70A.110;

(f) Are not essential public facilities, as defined in RCW 36.70A.200, unless an essential public facility is accessory to or part of a residential, office, school, commercial, recreational, service, or industrial development that is designated a planned action under this subsection; and

(g) Are consistent with a comprehensive plan or subarea plan adopted under chapter 36.70A RCW.

(2) A county, city, or town shall define the types of development included in the planned action and may limit a planned action to:

(a) A specific geographic area that is less extensive than the jurisdictional boundaries of the county, city, or town; or

(b) A time period identified in the ordinance or resolution adopted under this subsection.

(3)(a) A county, city, or town shall determine during permit review whether a proposed project is consistent with a planned action ordinance adopted by the jurisdiction. To determine project consistency with a planned action ordinance, a county, city, or town may utilize a modified checklist pursuant to the rules adopted to implement RCW 43.21C.110, a form that is designated within the planned action ordinance, or a form contained in agency rules adopted pursuant to RCW 43.21C.120.

(b) A county, city, or town is not required to make a threshold determination and may not require additional environmental review, for a proposal that is determined to be consistent with the development or redevelopment described in the planned action ordinance, except for impacts that are specifically deferred to the project level at the time of the planned action ordinance's adoption. At least one community meeting must be held before the notice is issued for the planned action ordinance. Notice for the planned action and notice of the community meeting required by this subsection (3)(b) must be mailed or otherwise verifiably provided to: (i) All affected federally recognized tribal governments; and (ii) agencies with jurisdiction over the future development anticipated for the planned action. The determination of consistency, and the adequacy of any environmental review that was specifically deferred, are subject to the type of administrative appeal that the county, city, or town provides for the proposal itself consistent with RCW 36.70B.060.

(4) For a planned action ordinance that encompasses the entire jurisdictional boundary of a county, city, or town, at least one community meeting must be held before the notice is issued for the planned action ordinance. Notice for the planned action ordinance and notice of the community meeting required by this subsection must be mailed or otherwise verifiably provided to:

(a) All property owners of record within the county, city, or town;

(b) All affected federally recognized tribal governments; and

(c) All agencies with jurisdiction over the future development anticipated for the planned action.

Sec. 304. RCW 43.21C.229 and 2003 c 298 s 1 are each amended to read as follows:

(1) In order to accommodate infill development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW, a city or county planning under RCW 36.70A.040 is authorized by this section to establish categorical exemptions from the requirements of this chapter. An exemption adopted under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a). An exemption may be adopted by a city or county under this section if it meets the following criteria:

(a) It categorically exempts government action related to development ((~~that is new residential or mixed-use development~~)) proposed to fill in an urban growth area, designated according to RCW 36.70A.110, where current density and intensity of use in the area is lower than called for in the goals and policies of the applicable comprehensive plan and the development is either:

(i) Residential development;

(ii) Mixed-use development; or

(iii) Commercial development up to sixty-five thousand square feet, excluding retail development;

(b) It does not exempt government action related to development that is inconsistent with the applicable comprehensive plan or would exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan; ((~~and~~))

(c) The local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, planned action ordinance, or other local, state, or federal rules or laws; and

(d)(i) The city or county's applicable comprehensive plan was previously subjected to environmental analysis through an environmental impact statement under the requirements of this chapter prior to adoption; or

(ii) The city or county has prepared an environmental impact statement that considers the proposed use or density and intensity of use in the area proposed for an exemption under this section.

(2) Any categorical exemption adopted by a city or county under this section shall be subject to the rules of the department adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department.

***NEW SECTION.** Sec. 305. A new section is added to chapter 43.21C RCW to read as follows:*

A county, city, or town may recover its reasonable expenses of preparation of a nonproject environmental impact statement prepared under RCW 43.21C.229 and section 303 of this act:

(1) Through access to financial assistance under RCW 36.70A.490; and

(2) With funding from private sources.

***Sec. 305 was vetoed. See message at end of chapter.**

***Sec. 306. RCW 82.02.020 and 2010 c 153 s 3 are each amended to read as follows:**

***Except only as expressly provided in chapters 67.28, 81.104, and 82.14 RCW, the state preempts the field of imposing retail sales and use taxes and taxes upon parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature. Except as provided in RCW 64.34.440 and 82.02.050 through 82.02.090, no county, city, town, or other municipal corporation shall impose any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision,*

classification, or reclassification of land. However, this section does not preclude dedications of land or easements within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.

This section does not prohibit voluntary agreements with counties, cities, towns, or other municipal corporations that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, subdivision, or plat. A local government shall not use such voluntary agreements for local off-site transportation improvements within the geographic boundaries of the area or areas covered by an adopted transportation program authorized by chapter 39.92 RCW. Any such voluntary agreement is subject to the following provisions:

(1) The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact;

(2) The payment shall be expended in all cases within five years of collection; and

(3) Any payment not so expended shall be refunded with interest to be calculated from the original date the deposit was received by the county and at the same rate applied to tax refunds pursuant to RCW 84.69.100; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

No county, city, town, or other municipal corporation shall require any payment as part of such a voluntary agreement which the county, city, town, or other municipal corporation cannot establish is reasonably necessary as a direct result of the proposed development or plat.

Nothing in this section prohibits cities, towns, counties, or other municipal corporations from collecting reasonable fees from an applicant for a permit or other governmental approval to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW, including reasonable fees that are consistent with RCW 43.21C.420(6) and section 305 of this act.

This section does not limit the existing authority of any county, city, town, or other municipal corporation to impose special assessments on property specifically benefited thereby in the manner prescribed by law.

Nothing in this section prohibits counties, cities, or towns from imposing or permits counties, cities, or towns to impose water, sewer, natural gas, drainage utility, and drainage system charges. However, no such charge shall exceed the proportionate share of such utility or system's capital costs which the county, city, or town can demonstrate are attributable to the property being charged. Furthermore, these provisions may not be interpreted to expand or contract any existing authority of counties, cities, or towns to impose such charges.

Nothing in this section prohibits a transportation benefit district from imposing fees or charges authorized in RCW 36.73.120 nor prohibits the

legislative authority of a county, city, or town from approving the imposition of such fees within a transportation benefit district.

Nothing in this section prohibits counties, cities, or towns from imposing transportation impact fees authorized pursuant to chapter 39.92 RCW.

Nothing in this section prohibits counties, cities, or towns from requiring property owners to provide relocation assistance to tenants under RCW 59.18.440 and 59.18.450.

Nothing in this section limits the authority of counties, cities, or towns to implement programs consistent with RCW 36.70A.540, nor to enforce agreements made pursuant to such programs.

This section does not apply to special purpose districts formed and acting pursuant to Title 54, 57, or 87 RCW, nor is the authority conferred by these titles affected.

***Sec. 306 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 307.** A new section is added to chapter 43.21C RCW to read as follows:

The following nonproject actions are categorically exempt from the requirements of this chapter:

(1) Amendments to development regulations that are required to ensure consistency with an adopted comprehensive plan pursuant to RCW 36.70A.040, where the comprehensive plan was previously subjected to environmental review pursuant to this chapter and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;

(2) Amendments to development regulations that are required to ensure consistency with a shoreline master program approved pursuant to RCW 90.58.090, where the shoreline master program was previously subjected to environmental review pursuant to this chapter and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;

(3) Amendments to development regulations that, upon implementation of a project action, will provide increased environmental protection, limited to the following:

(a) Increased protections for critical areas, such as enhanced buffers or setbacks;

(b) Increased vegetation retention or decreased impervious surface areas in shoreline jurisdiction; and

(c) Increased vegetation retention or decreased impervious surface areas in critical areas;

(4) Amendments to technical codes adopted by a county, city, or town to ensure consistency with minimum standards contained in state law, including the following:

(a) Building codes required by chapter 19.27 RCW;

(b) Energy codes required by chapter 19.27A RCW; and

(c) Electrical codes required by chapter 19.28 RCW.

NEW SECTION. **Sec. 308.** A new section is added to chapter 43.21C RCW to read as follows:

(1) The lead agency for an environmental review under this chapter utilizing an environmental checklist developed by the department of ecology pursuant to RCW 43.21C.110 may identify within the checklist provided to applicants

instances where questions on the checklist are adequately covered by a locally adopted ordinance, development regulation, land use plan, or other legal authority.

(2) If a lead agency identifies an instance as described in subsection (1) of this section, it still must consider whether the action has an impact on the particular element or elements of the environment in question.

(3) In instances where the locally adopted ordinance, development regulation, land use plan, or other legal authority provide the necessary information to answer a specific question, the lead agency must explain how the proposed project satisfies the underlying local legal authority.

(4) If the lead agency identifies instances where questions on the checklist are adequately covered by a locally adopted ordinance, development regulation, land use plan, or other legal authority, an applicant may still provide answers to any questions on the checklist.

(5) Nothing in this section authorizes a lead agency to ignore or delete a question on the checklist.

(6) Nothing in this section changes the standard for whether an environmental impact statement is required for an action that may have a probable significant, adverse environmental impact pursuant to RCW 43.21C.030.

(7) Nothing in this section affects the appeal provisions provided in this chapter.

(8) Nothing in this section modifies existing rules for determining the lead agency, as defined in WAC 197-11-922 through 197-11-948, nor does it modify agency procedures for complying with the state environmental policy act when an agency other than a local government is serving as the lead agency.

Sec. 309. RCW 36.70A.490 and 1995 c 347 s 115 are each amended to read as follows:

The growth management planning and environmental review fund is hereby established in the state treasury. Moneys may be placed in the fund from the proceeds of bond sales, tax revenues, budget transfers, federal appropriations, gifts, or any other lawful source. Moneys in the fund may be spent only after appropriation. Moneys in the fund shall be used to make grants or loans to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, or 36.70A.500. Any payment of either principal or interest, or both, derived from loans made from this fund must be deposited into the fund.

Sec. 310. RCW 36.70A.500 and 1997 c 429 s 28 are each amended to read as follows:

(1) The department of ((~~community, trade, and economic development~~)) commerce shall provide management services for the growth management planning and environmental review fund created by RCW 36.70A.490. The department shall establish procedures for fund management. The department shall encourage participation in the grant or loan program by other public agencies. The department shall develop the grant or loan criteria, monitor the grant or loan program, and select grant or loan recipients in consultation with state agencies participating in the grant or loan program through the provision of grant or loan funds or technical assistance.

(2) A grant or loan may be awarded to a county or city that is required to or has chosen to plan under RCW 36.70A.040 and that is qualified pursuant to this section. The grant or loan shall be provided to assist a county or city in paying for the cost of preparing an environmental analysis under chapter 43.21C RCW, that is integrated with a comprehensive plan, subarea plan, plan element, countywide planning policy, development regulation, monitoring program, or other planning activity adopted under or implementing this chapter that:

(a) Improves the process for project permit review while maintaining environmental quality; or

(b) Encourages use of plans and information developed for purposes of complying with this chapter to satisfy requirements of other state programs.

(3) In order to qualify for a grant or loan, a county or city shall:

(a) Demonstrate that it will prepare an environmental analysis pursuant to chapter 43.21C RCW and subsection (2) of this section that is integrated with a comprehensive plan, subarea plan, plan element, countywide planning policy, development regulations, monitoring program, or other planning activity adopted under or implementing this chapter;

(b) Address environmental impacts and consequences, alternatives, and mitigation measures in sufficient detail to allow the analysis to be adopted in whole or in part by applicants for development permits within the geographic area analyzed in the plan;

(c) Demonstrate that procedures for review of development permit applications will be based on the integrated plans and environmental analysis;

(d) Include mechanisms to monitor the consequences of growth as it occurs in the plan area and to use the resulting data to update the plan, policy, or implementing mechanisms and associated environmental analysis;

(e) Demonstrate substantial progress towards compliance with the requirements of this chapter. A county or city that is more than six months out of compliance with a requirement of this chapter is deemed not to be making substantial progress towards compliance; and

(f) Provide local funding, which may include financial participation by the private sector.

(4) In awarding grants or loans, the department shall give preference to proposals that include one or more of the following elements:

(a) Financial participation by the private sector, or a public/private partnering approach;

(b) Identification and monitoring of system capacities for elements of the built environment, and to the extent appropriate, of the natural environment;

(c) Coordination with state, federal, and tribal governments in project review;

(d) Furtherance of important state objectives related to economic development, protection of areas of statewide significance, and siting of essential public facilities;

(e) Programs to improve the efficiency and effectiveness of the permitting process by greater reliance on integrated plans and prospective environmental analysis;

(f) Programs for effective citizen and neighborhood involvement that contribute to greater likelihood that planning decisions can be implemented with community support; ((~~and~~))

(g) Programs to identify environmental impacts and establish mitigation measures that provide effective means to satisfy concurrency requirements and establish project consistency with the plans; or

(h) Environmental review that addresses the impacts of increased density or intensity of comprehensive plans, subarea plans, or receiving areas designated by a city or town under the regional transfer of development rights program in chapter 43.362 RCW.

(5) If the local funding includes funding provided by other state functional planning programs, including open space planning and watershed or basin planning, the functional plan shall be integrated into and be consistent with the comprehensive plan.

(6) State agencies shall work with grant or loan recipients to facilitate state and local project review processes that will implement the projects receiving grants or loans under this section.

Sec. 311. RCW 43.21C.110 and 1997 c 429 s 47 are each amended to read as follows:

It shall be the duty and function of the department of ecology:

(1) To adopt and amend ((~~thereafter~~)) rules of interpretation and implementation of this chapter, subject to the requirements of chapter 34.05 RCW, for the purpose of providing uniform rules and guidelines to all branches of government including state agencies, political subdivisions, public and municipal corporations, and counties. The proposed rules shall be subject to full public hearings requirements associated with rule ((~~promulgation~~)) adoption. Suggestions for modifications of the proposed rules shall be considered on their merits, and the department shall have the authority and responsibility for full and appropriate independent ((~~promulgation and~~)) adoption of rules, assuring consistency with this chapter as amended and with the preservation of protections afforded by this chapter. The rule-making powers authorized in this section shall include, but shall not be limited to, the following phases of interpretation and implementation of this chapter:

(a) Categories of governmental actions which are not to be considered as potential major actions significantly affecting the quality of the environment, including categories pertaining to applications for water right permits pursuant to chapters 90.03 and 90.44 RCW. The types of actions included as categorical exemptions in the rules shall be limited to those types which are not major actions significantly affecting the quality of the environment. The rules shall provide for certain circumstances where actions which potentially are categorically exempt require environmental review. An action that is categorically exempt under the rules adopted by the department may not be conditioned or denied under this chapter.

(b) Rules for criteria and procedures applicable to the determination of when an act of a branch of government is a major action significantly affecting the quality of the environment for which a detailed statement is required to be prepared pursuant to RCW 43.21C.030.

(c) Rules and procedures applicable to the preparation of detailed statements and other environmental documents, including but not limited to rules for timing of environmental review, obtaining comments, data and other information, and providing for and determining areas of public participation which shall include the scope and review of draft environmental impact statements.

(d) Scope of coverage and contents of detailed statements assuring that such statements are simple, uniform, and as short as practicable; statements are required to analyze only reasonable alternatives and probable adverse environmental impacts which are significant, and may analyze beneficial impacts.

(e) Rules and procedures for public notification of actions taken and documents prepared.

(f) Definition of terms relevant to the implementation of this chapter including the establishment of a list of elements of the environment. Analysis of environmental considerations under RCW 43.21C.030(2) may be required only for those subjects listed as elements of the environment (or portions thereof). The list of elements of the environment shall consist of the "natural" and "built" environment. The elements of the built environment shall consist of public services and utilities (such as water, sewer, schools, fire and police protection), transportation, environmental health (such as explosive materials and toxic waste), and land and shoreline use (including housing, and a description of the relationships with land use and shoreline plans and designations, including population).

(g) Rules for determining the obligations and powers under this chapter of two or more branches of government involved in the same project significantly affecting the quality of the environment.

(h) Methods to assure adequate public awareness of the preparation and issuance of detailed statements required by RCW 43.21C.030(2)(c).

(i) To prepare rules for projects setting forth the time limits within which the governmental entity responsible for the action shall comply with the provisions of this chapter.

(j) Rules for utilization of a detailed statement for more than one action and rules improving environmental analysis of nonproject proposals and encouraging better interagency coordination and integration between this chapter and other environmental laws.

(k) Rules relating to actions which shall be exempt from the provisions of this chapter in situations of emergency.

(l) Rules relating to the use of environmental documents in planning and decision making and the implementation of the substantive policies and requirements of this chapter, including procedures for appeals under this chapter.

(m) Rules and procedures that provide for the integration of environmental review with project review as provided in RCW 43.21C.240. The rules and procedures shall be jointly developed with the department of ((~~community, trade, and economic development~~)) commerce and shall be applicable to the preparation of environmental documents for actions in counties, cities, and towns planning under RCW 36.70A.040. The rules and procedures shall also include procedures and criteria to analyze planned actions under ((~~RCW 43.21C.031(2)~~)) section 303 of this act and revisions to the rules adopted under this section to ensure that they are compatible with the requirements and authorizations of chapter 347, Laws of 1995, as amended by chapter 429, Laws of 1997. Ordinances or procedures adopted by a county, city, or town to implement the provisions of chapter 347, Laws of 1995 prior to the effective date of rules adopted under this subsection (1)(m) shall continue to be effective until the adoption of any new or revised ordinances or procedures that may be

required. If any revisions are required as a result of rules adopted under this subsection (1)(m), those revisions shall be made within the time limits specified in RCW 43.21C.120.

(2) In exercising its powers, functions, and duties under this section, the department may:

(a) Consult with the state agencies and with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments, and other groups, as it deems advisable; and

(b) Utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals, in order to avoid duplication of effort and expense, overlap, or conflict with similar activities authorized by law and performed by established agencies.

(3) Rules adopted pursuant to this section shall be subject to the review procedures of chapter 34.05 RCW.

Sec. 312. RCW 43.21C.095 and 1983 c 117 s 5 are each amended to read as follows:

The rules ((~~promulgated~~)) adopted under RCW 43.21C.110 shall be accorded substantial deference in the interpretation of this chapter.

Sec. 313. RCW 90.48.260 and 2011 c 353 s 12 are each amended to read as follows:

(1) The department of ecology is hereby designated as the state water pollution control agency for all purposes of the federal clean water act as it exists on February 4, 1987, and is hereby authorized to participate fully in the programs of the act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act. With regard to the national estuary program established by section 320 of that act, the department shall exercise its responsibility jointly with the Puget Sound partnership, created in RCW 90.71.210. The department of ecology may delegate its authority under this chapter, including its national pollutant discharge elimination permit system authority and duties regarding animal feeding operations and concentrated animal feeding operations, to the department of agriculture through a memorandum of understanding. Until any such delegation receives federal approval, the department of agriculture's adoption or issuance of animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives pertaining to water quality shall be accomplished after reaching agreement with the director of the department of ecology. Adoption or issuance and implementation shall be accomplished so that compliance with such animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives will achieve compliance with all federal and state water pollution control laws. The powers granted herein include, among others, and notwithstanding any other provisions of this chapter ((~~90.48 RCW~~)) or otherwise, the following:

(a) Complete authority to establish and administer a comprehensive state point source waste discharge or pollution discharge elimination permit program which will enable the department to qualify for full participation in any national waste discharge or pollution discharge elimination permit system and will allow the department to be the sole agency issuing permits required by such national

system operating in the state of Washington subject to the provisions of RCW 90.48.262(2). Program elements authorized herein may include, but are not limited to: (i) Effluent treatment and limitation requirements together with timing requirements related thereto; (ii) applicable receiving water quality standards requirements; (iii) requirements of standards of performance for new sources; (iv) pretreatment requirements; (v) termination and modification of permits for cause; (vi) requirements for public notices and opportunities for public hearings; (vii) appropriate relationships with the secretary of the army in the administration of his or her responsibilities which relate to anchorage and navigation, with the administrator of the environmental protection agency in the performance of his or her duties, and with other governmental officials under the federal clean water act; (viii) requirements for inspection, monitoring, entry, and reporting; (ix) enforcement of the program through penalties, emergency powers, and criminal sanctions; (x) a continuing planning process; and (xi) user charges.

(b) The power to establish and administer state programs in a manner which will ((~~insure~~)) ensure the procurement of moneys, whether in the form of grants, loans, or otherwise; to assist in the construction, operation, and maintenance of various water pollution control facilities and works; and the administering of various state water pollution control management, regulatory, and enforcement programs.

(c) The power to develop and implement appropriate programs pertaining to continuing planning processes, area-wide waste treatment management plans, and basin planning.

(2) The governor shall have authority to perform those actions required of him or her by the federal clean water act.

((~~(2)~~)) (3) By July 31, 2012, the department shall:

(a) Reissue without modification and for a term of one year any national pollutant discharge elimination system municipal storm water general permit applicable to western Washington municipalities first issued on January 17, 2007; and

(b) Issue an updated national pollutant discharge elimination system municipal storm water general permit applicable to western Washington municipalities for any permit first issued on January 17, 2007. An updated permit issued under this subsection shall become effective beginning August 1, 2013.

(i) Provisions of the updated permit issued under (b) of this subsection relating to new requirements for low-impact development and review and revision of local development codes, rules, standards, or other enforceable documents to incorporate low-impact development principles must be implemented simultaneously. These requirements may go into effect no earlier than December 31, 2016, or the time of the scheduled update under RCW 36.70A.130(5), as existing on the effective date of this section, whichever is later.

(ii) Provisions of the updated permit issued under (b) of this subsection related to increased catch basin inspection and illicit discharge detection frequencies and application of new storm water controls to projects smaller than one acre may go into effect no earlier than December 31, 2016, or the time of the

scheduled update under RCW 36.70A.130(5), as existing on the effective date of this section, whichever is later.

(4) By July 31, 2012, the department shall:

(a) Reissue without modification and for a term of two years any national pollutant discharge elimination system municipal storm water general permit applicable to eastern Washington municipalities first issued on January 17, 2007; and

(b) Issue an updated national pollutant discharge elimination system municipal storm water general permit for any permit first issued on January 17, 2007, applicable to eastern Washington municipalities. An updated permit issued under this subsection becomes effective August 1, 2014.

Passed by the Senate April 10, 2012.
Passed by the House April 10, 2012.
Approved by the Governor May 2, 2012, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State May 2, 2012.

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

"I am returning herewith, without my approval as to Sections 305 and 306, Second Engrossed Substitute Senate Bill 6406 entitled:

"AN ACT Relating to modifying programs that provide for protection of the state's natural resources."

This bill streamlines regulatory programs for managing and protecting the state's natural environment while increasing the sustainability of program funding and maintaining current levels of natural resource protection.

Section 301 of the bill requires the Department of Ecology to prepare rules to update the categorical exemptions for environmental review under the State Environmental Policy Act (SEPA), revise the SEPA environmental checklist, and improve integration of SEPA with the provisions of the Growth Management Act. In updating the checklist, Section 301(2)(c) of the bill directs the Department of Ecology to "not include any new subjects into the scope of the checklist, including climate change and greenhouse gases."

I have been assured that the intent of this language is confined to its plain meaning: This subsection addresses only how the Department of Ecology may modify the environmental checklist in its update of WAC 197-11-960. This language does not impact in any way the scope of the environmental analysis required at the threshold determination stage of the SEPA process or the scope of the environmental analysis required in an environmental impact statement. Letters I have received from legislators involved in the drafting of this language confirm that the Legislature's intent was to address only the scope of the environmental checklist and not to amend any substantive SEPA requirements.

This understanding and interpretation of the bill are set forth in letters to me from legislators directly involved in passage of the legislation, including an April 23, 2012, letter from Senator Sharon Nelson and Representative Dave Upthegrove, respective chairs of the Senate and House Environment Committees; an April 26, 2012, letter from Representatives Richard DeBolt, Joel Kretz, Bruce Chandler, Shelly Short, David Taylor, J.T. Wilcox, and Ed Orcutt; and an April 27, 2012, letter from Senators Jim Honeyford and Mark Schoesler.

This is also the understanding and interpretation set forth in an April 19, 2012, letter to me from Representative Joe Fitzgibbon, the prime sponsor of House Bill 2253, where this language first appeared. I have also received letters from stakeholders who participated in legislative proceedings related to this provision. These stakeholders include the Association of Washington Cities, Washington State Association of Counties, Futurewise, Association of Washington Business, and the Washington Chapter of the American Planning Association. These letters affirm that the intent of Section 301 was to eliminate existing duplication between state natural resource programs, and not to

amend any substantive SEPA requirements. An April 20, 2012, joint letter from representatives of four environmental organizations notes that ESSB 6406 was the product of "a long and ultimately constructive negotiation amongst a diverse set of stakeholders," including their organizations: People for Puget Sound, Washington Conservation Voters, the Washington Environmental Council, and Climate Solutions. This letter quotes the language of Section 301(2)(c)(ii) and states: "Throughout the bill negotiations, there was agreement amongst all parties that the intent of this subsection was to ensure simply that no new line items were added to the SEPA checklist in the process of the checklist update directed by section 301." However, the letter indicates that after the passage of this bill by the Senate and House, advisers to these organizations raised concerns that the language could be read to make broader changes in SEPA law.

After careful review, I have concluded that these assurances that the Legislature did not intend to limit the scope of SEPA review of adverse effects of climate change and greenhouse gases are fully supported. Section 1 of the bill expresses the Legislature's intent to maintain current levels of natural resource protection. Additionally, Section 301(2)(c) specifically references the environmental checklist found in WAC 197-11-960. The Legislature did not reference other steps in the SEPA process such as the threshold determination addressed in different sections of chapter 197-11 WAC. Nothing in the letters I have received or in the legislative discussions of this provision negates this understanding.

My action in approving Section 301 is taken with the intent that it will operate only to prohibit inclusion of any new subjects in the scope of the checklist, and that the subjects of climate change and greenhouse gases will be considered in the environmental analysis required at the threshold determination stage of the SEPA process and in the environmental analysis required in a SEPA environmental impact statement. After consulting legal advisers, it is my understanding that this is the proper reading of this section of the bill and that this understanding will be considered by the courts when ascertaining legislative intent, as outlined in *Lynch v. State*, 19 Wn.2d 802 (1944). Without this understanding, I would have vetoed Section 301.

Concern has also been raised that there is a need for a meaningful civil enforcement capacity to support the state's Hydraulic Project Approval (HPA) program. I share this concern and have asked the Washington Department of Fish and Wildlife to clarify the current enforcement mechanisms through rule revision within the ongoing HPA rule update, and to implement an effectiveness survey to measure results.

I am also asking the Department to deliver the survey results to the Office of Financial Management, the Governor's Office, and the Legislature, with the intent to inform actions needed to create a more effective civil enforcement HPA program.

Amendments to the bill in the final day of the 2012 1st Special Session removed the explicit authority for local governments to collect a fee to recover their costs for a SEPA environmental impact statement prepared in support of certain land use plans. However, remnants of the original fee proposal that are no longer meaningful were left in the bill. Section 305 allows local governments to recover the costs of a SEPA environmental impact statement for certain land use plans from either state funds or private donations. Local governments are already authorized to accept funding from these sources. Section 306 refers to fees that are no longer authorized in Section 305. These two sections of the bill have the potential to create confusion with the existing authorities of local governments.

For these reasons, I have vetoed Sections 305 and 306 of Second Engrossed Substitute Senate Bill 6406.

With the exception of Sections 305 and 306, Second Engrossed Substitute Senate Bill 6406 is approved."

CHAPTER 2

[Substitute House Bill 2491]

UNEMPLOYMENT EXPERIENCE RATING—
PREDECESSOR-SUCCESSOR RELATIONSHIPS

AN ACT Relating to specifying when predecessor-successor relationships do not exist for purposes of unemployment experience rating; amending RCW 50.29.062; and creating a new section.

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

Sec. 1. RCW 50.29.062 and 2010 c 25 s 2 are each amended to read as follows:

((~~Except as provided in RCW 50.29.063~~)) (1) If the department finds that a significant purpose of the transfer of the business is to obtain a reduced array calculation factor rate, contribution rates shall be computed and penalties and other sanctions shall apply as specified in RCW 50.29.063.

(2) If subsection (1) of this section and RCW 50.29.063 do not apply and if the department finds that an employer is a successor, or partial successor, to a predecessor business, predecessor and successor employer contribution rates shall be computed in the following manner:

((~~(1)~~))(a) If the successor is an employer, as defined in RCW 50.04.080, at the time of the transfer of a business, the following applies:

((~~(a)~~)) (i) The successor's contribution rate shall remain unchanged for the remainder of the rate year in which the transfer occurs((~~; and~~)).

((~~(b)~~)) (ii) Beginning January 1st following the transfer, the successor's contribution rate for each rate year shall be based on a combination of the following:

((~~(i)~~)) (A) The successor's experience with payrolls and benefits; and

((~~(ii)~~)) (B) Any experience assigned to the predecessor involved in the transfer. If only a portion of the business was transferred, then the experience attributable to the acquired portion is assigned to the successor.

((~~(2)~~)) (b) If the successor is not an employer at the time of the transfer, the following applies:

((~~(a)~~)) (i) For transfers before January 1, 2005:

((~~(i)~~)) (A) Except as provided in ((~~(ii)~~)) (b)(i)(B) of this subsection (2)((~~(a)~~)), the successor shall pay contributions at the lowest rate determined under either of the following:

((~~(A)~~)) (I) The contribution rate of the rate class assigned to the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience relating to the assignment of that rate class attributable to the predecessor is transferred to the successor. Beginning with the January 1st following the transfer, the successor's contribution rate shall be based on a combination of the transferred experience of the acquired business and the successor's experience after the transfer; or

((~~(B)~~)) (II) The contribution rate equal to the average industry rate as determined by the commissioner, but not less than one percent, and continuing until the successor qualifies for a different rate in its own right. Assignment of employers by the commissioner to industrial classification, for purposes of this subsection, must be in accordance with established classification practices found in the North American industry classification system issued by the federal office

of management and budget to the fourth digit provided in the North American industry classification system.

((~~(ii)~~)) (B) If the successor simultaneously acquires the business or a portion of the business of two or more employers in different rate classes, its rate, from the date the transfer occurred until the end of that rate year and until it qualifies in its own right for a new rate, shall be the rate of the highest rate class applicable at the time of the acquisition to any predecessor employer who is a party to the acquisition, but not less than one percent.

((~~(b)~~)) (ii) For transfers on or after January 1, 2005:

((~~(i)~~)) (A) Except as provided in ((~~(ii) and (iii)~~)) (b)(ii)(B) and (C) of this subsection (2)((~~(b)~~)), the successor shall pay contributions:

((~~(A)~~)) (I) At the contribution rate assigned to the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience attributable to the predecessor relating to the assignment of the predecessor's rate class is transferred to the successor.

((~~(B)~~)) (II) Beginning January 1st following the transfer, the successor's contribution rate for each rate year shall be based on an array calculation factor rate that is a combination of the following: The successor's experience with payrolls and benefits; and any experience assigned to the predecessor involved in the transfer. If only a portion of the business was transferred, then the experience attributable to the acquired portion is assigned to the successor if qualified under RCW 50.29.010 by including the transferred experience. If not qualified under RCW 50.29.010, the contribution rate shall equal the sum of the rates determined by the commissioner under RCW 50.29.025 (1)(d)(ii) or (2)(d) and 50.29.041, if applicable, and continuing until the successor qualifies for a different rate, including the transferred experience.

((~~(ii)~~)) (B) If there is a substantial continuity of ownership, control, or management by the successor of the business of the predecessor, the successor shall pay contributions at the contribution rate determined for the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience attributable to the predecessor relating to the assignment of the predecessor's rate class is transferred to the successor. Beginning January 1st following the transfer, the successor's array calculation factor rate shall be based on a combination of the transferred experience of the acquired business and the successor's experience after the transfer.

((~~(iii)~~)) (C) If the successor simultaneously acquires the business or a portion of the business of two or more employers with different contribution rates, the successor's rate, from the date the transfer occurred until the end of that rate year and until it qualifies in its own right for a new rate, shall be the sum of the rates determined by the commissioner under RCW 50.29.025 (1) (a) and (b) or (2) (a) and (b), and 50.29.041, applicable at the time of the acquisition, to the predecessor employer who, among the parties to the acquisition, had the largest total payroll in the completed calendar quarter immediately preceding the date of transfer, but not less than the sum of the rates determined by the commissioner under RCW 50.29.025 (1)(d)(ii) or (2)(d) and 50.29.041, if applicable.

((~~(3)~~)) (c) With respect to predecessor employers:

((~~(a)~~)) (i) The contribution rate on any payroll retained by a predecessor employer shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(((~~(b)~~))) (ii) In all cases, beginning January 1st following the transfer, the predecessor's contribution rate or the predecessor's array calculation factor for each rate year shall be based on its experience with payrolls and benefits as of the regular computation date for that rate year excluding the experience of the transferred business or transferred portion of business as that experience has transferred to the successor: PROVIDED, That if all of the predecessor's business is transferred to a successor or successors, the predecessor shall not be a qualified employer until it satisfies the requirements of a "qualified employer" as set forth in RCW 50.29.010.

(3) A predecessor-successor relationship does not exist for purposes of subsection (2) of this section when a significant purpose of the transfer of a business or its operating assets is for the employer to move or expand an existing business, or for an employer to establish a substantially similar business under common ownership, management, and control. However, if an employer transfers its business to another employer, and both employers are at the time of transfer under substantially common ownership, management, or control, then the unemployment experience attributable to the transferred business shall also be transferred to, and combined with the unemployment experience attributable to, the employer to whom such business is so transferred as specified in subsection (2)(a) of this section.

(4) For purposes of this section, "transfer of a business" means the same as RCW 50.29.063(4)(c).

NEW SECTION. **Sec. 2.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. **Sec. 3.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House April 6, 2012.
Passed by the Senate April 10, 2012.
Approved by the Governor May 2, 2012.
Filed in Office of Secretary of State May 2, 2012.

CHAPTER 3

[Substitute House Bill 2590]

POLLUTION LIABILITY INSURANCE PROGRAM

AN ACT Relating to extending the expiration of the pollution liability insurance agency's authority and its funding source; amending RCW 70.148.020, 70.148.900, 70.149.900, 82.23A.010, 82.23A.020, and 82.23A.902; and providing expiration dates.

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

Sec. 1. RCW 70.148.020 and 2006 c 276 s 1 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, 2013~~)) July 1, 2020.

Sec. 2. RCW 70.148.900 and 2006 c 276 s 3 are each amended to read as follows:

This chapter ((~~shall~~)) expires ((~~June 1, 2013~~)) July 1, 2020.

Sec. 3. RCW 70.149.900 and 2006 c 276 s 4 are each amended to read as follows:

((~~Sections 1 through 11 of this act shall expire June 1, 2013~~)) This chapter expires July 1, 2020.

Sec. 4. RCW 82.23A.010 and 2004 c 203 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) "Petroleum product" means plant condensate, lubricating oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, residual oil, and every other product derived from the refining of crude oil, but the term does not include crude oil or liquefiable gases.

(2) "Possession" means the control of a petroleum product located within this state and includes both actual and constructive possession. "Actual possession" occurs when the person with control has physical possession. "Constructive possession" occurs when the person with control does not have

physical possession. "Control" means the power to sell or use a petroleum product or to authorize the sale or use by another.

(3) "Previously taxed petroleum product" means a petroleum product in respect to which a tax has been paid under this chapter and that has not been remanufactured or reprocessed in any manner (other than mere repackaging or recycling for beneficial reuse) since the tax was paid.

(4) "Rack" means a mechanism for delivering petroleum products from a refinery or terminal into a truck, trailer, railcar, or other means of nonbulk transfer. For the purposes of this definition:

(a) "Terminal" has the same definition as in RCW 82.36.010 and 82.38.020; and

(b) "Nonbulk transfer" means a transfer that does not meet the definition of "bulk transfer" as defined in RCW 82.36.010 and 82.38.020.

(5) "Wholesale value" means fair market wholesale value, determined as nearly as possible according to the wholesale selling price at the place of use of similar products of like quality and character, in accordance with rules of the department.

((~~(5)~~)) (6) Except for terms defined in this section, the definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

Sec. 5. RCW 82.23A.020 and 1991 c 4 s 8 are each amended to read as follows:

(1) A tax is imposed on the privilege of possession of petroleum products in this state. The rate of the tax shall be ((~~fifty~~)) thirty one-hundredths of one percent multiplied by the wholesale value of the petroleum product. For purposes of determining the tax imposed under this section for petroleum products introduced at the rack, the wholesale value is determined when the petroleum product is removed at the rack unless the removal is to an exporter licensed under chapter 82.36 or 82.38 RCW for direct delivery to a destination outside of the state. For all other cases, the wholesale value is determined upon the first nonbulk possession in the state.

(2) Moneys collected under this chapter shall be deposited in the pollution liability insurance program trust account under RCW 70.148.020.

(3) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter.

(4) Within thirty days after the end of each calendar quarter the department shall determine the "quarterly balance," which shall be the cash balance in the pollution liability insurance program trust account as of the last day of that calendar quarter, after excluding the reserves determined for that quarter under RCW 70.148.020 (2) and (3). Balance determinations by the department under this section are final and shall not be used to challenge the validity of any tax imposed under this section. For each subsequent calendar quarter, tax shall be imposed under this section during the entire calendar quarter unless:

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

(b) Tax was not imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than seven million five hundred thousand dollars.

Sec. 6. RCW 82.23A.902 and 2006 c 276 s 5 are each amended to read as follows:

This chapter ((~~shall~~)) expire<u>s</u> ((~~on June 1, 2013~~)) <u>July 1, 2020</u>, coinciding with the expiration of chapter 70.148 RCW.

Passed by the House April 6, 2012.
Passed by the Senate April 10, 2012.
Approved by the Governor May 2, 2012.
Filed in Office of Secretary of State May 2, 2012.

CHAPTER 4

[Substitute House Bill 2828]

CHILD CARE SERVICES—ESTABLISHMENT AND ENFORCEMENT

AN ACT Relating to removing the requirement that the department of social and health services or the department of early learning take appropriate action to establish or enforce support obligations whenever it receives an application for subsidized child care services or working connections child care services; amending RCW 74.20.040 and 74.20.330; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 74.20.040 and 2011 1st sp.s. c 42 s 9 are each amended to read as follows:

(1) Whenever the department receives an application for public assistance on behalf of a child, ((~~or the department receives an application for subsidized child care services or working connections child care services,~~)) the department ((~~or the department of early learning~~)) shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

(2) The secretary may accept a request for support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. Requests accepted under this subsection may be conditioned upon the payment of a fee as required by subsection (6) of this section or through regulation issued by the secretary. The secretary may establish by regulation, reasonable standards and qualifications for support enforcement services under this subsection.

(3) The secretary may accept requests for support enforcement services from child support enforcement agencies in other states operating child support programs under Title IV-D of the social security act or from foreign countries, and may take appropriate action to establish and enforce support obligations, or to enforce subpoenas, information requests, orders for genetic testing, and collection actions issued by the other agency against the parent or other person owing a duty to pay support moneys, the parent or other person's employer, or any other person or entity properly subject to child support collection or information-gathering processes. The request shall contain and be accompanied by such information and documentation as the secretary may by rule require, and be signed by an authorized representative of the agency. The secretary may adopt rules setting forth the duration and nature of services provided under this subsection.

(4) The department may take action to establish, enforce, and collect a support obligation, including performing related services, under this chapter and chapter 74.20A RCW, or through the attorney general or prosecuting attorney for action under chapter 26.09, 26.18, 26.20, 26.21A, or 26.26 RCW or other appropriate statutes or the common law of this state.

(5) Whenever a support order is filed with the Washington state support registry under chapter 26.23 RCW, the department may take appropriate action under the provisions of this chapter, chapter 26.23 or 74.20A RCW, or other appropriate law of this state to establish or enforce the support obligations contained in that order against the responsible parent or other persons owing a duty to pay support moneys.

(6) The secretary, in the case of an individual who has never received assistance under a state program funded under part A and for whom the state has collected at least five hundred dollars of support, shall impose an annual fee of twenty-five dollars for each case in which services are furnished, which shall be retained by the state from support collected on behalf of the individual, but not from the first five hundred dollars of support. The secretary may, on showing of necessity, waive or defer any such fee or cost.

(7) Fees, due and owing, may be retained from support payments directly or collected as delinquent support moneys utilizing any of the remedies in chapter 74.20 RCW, chapter 74.20A RCW, chapter 26.21A RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

(8) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys or fees owed.

(9) The secretary shall adopt rules conforming to federal laws, including but not limited to complying with section 7310 of the federal deficit reduction act of 2005, 42 U.S.C. Sec. 654, and rules and regulations required to be observed in maintaining the state child support enforcement program required under Title IV-D of the federal social security act. The adoption of these rules shall be calculated to promote the cost-effective use of the agency's resources and not otherwise cause the agency to divert its resources from its essential functions.

Sec. 2. RCW 74.20.330 and 2011 1st sp.s. c 42 s 10 are each amended to read as follows:

(1) Whenever public assistance is paid under a state program funded under Title IV-A of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996, and the federal deficit reduction act of 2005, each applicant or recipient is deemed to have made assignment to the department of any rights to a support obligation from any other person the applicant or recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving public assistance, including any unpaid support obligation or support debt which has accrued at the time the assignment is made.

(2) Payment of public assistance under a state-funded program, or a program funded under Title IV-A, IV-E, or XIX of the federal social security act

as amended by the personal responsibility and work opportunity reconciliation act of 1996 shall:

(a) Operate as an assignment by operation of law; and

(b) Constitute an authorization to the department to provide the assistance recipient with support enforcement services.

(3) ((~~Payment for subsidized child care services or working connections child care services shall constitute an authorization to the department to provide the recipient of the subsidy with support enforcement services. The department is authorized to collect, but not retain, child support payments under this subsection.~~

~~(4)~~)) Effective October 1, 2008, whenever public assistance is paid under a state program funded under Title IV-A of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996, and the federal deficit reduction act of 2005, a member of the family is deemed to have made an assignment to the state any right the family member may have, or on behalf of the family member receiving such assistance, to support from any other person, not exceeding the total amount of assistance paid to the family, which accrues during the period that the family receives assistance under the program.

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 June 7, 2012.

Passed by the House April 5, 2012.
Passed by the Senate April 6, 2012.
Approved by the Governor May 2, 2012.
Filed in Office of Secretary of State May 2, 2012.

CHAPTER 5

[House Bill 2834]

LOCAL GOVERNMENT—REPORTING REQUIREMENTS

AN ACT Relating to providing cost savings for local governments by reducing a limited number of reporting requirements; amending RCW 35.22.620, 36.27.020, and 36.70A.180; adding a new section to chapter 43.41 RCW; and repealing RCW 35.21.687 and 36.34.137.

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

Sec. 1. RCW 35.22.620 and 2009 c 229 s 3 are each amended to read as follows:

(1) As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first-class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first-class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first-class city has a county perform for it under RCW 35.77.020 shall be included within this ten percent limitation.

If a first-class city has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first-class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first-class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first-class city shall not have public employees perform a public works project in excess of ninety thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of forty-five thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

(4) In addition to the accounting and record-keeping requirements contained in RCW 39.04.070, every first-class city annually ((~~shall~~)) may prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ten percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report ((~~shall~~)) may indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ten percent of the total biennial construction budget.

Each first-class city with a population of one hundred fifty thousand or less shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) The competitive bidding requirements of this section may be waived by the city legislative authority pursuant to RCW 39.04.280 if an exemption contained within that section applies to the work or contract.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first-class city may let contracts using the small works roster process in RCW 39.04.155.

Whenever possible, the city shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first-class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

Sec. 2. RCW 36.27.020 and 1995 c 194 s 4 are each amended to read as follows:

The prosecuting attorney shall:

(1) Be legal adviser of the legislative authority, giving ((~~them [it]~~)) it his or her written opinion when required by the legislative authority or the chairperson thereof touching any subject which the legislative authority may be called or required to act upon relating to the management of county affairs;

(2) Be legal adviser to all county and precinct officers and school directors in all matters relating to their official business, and when required draw up all instruments of an official nature for the use of said officers;

(3) Appear for and represent the state, county, and all school districts subject to the supervisory control and direction of the attorney general in all criminal and civil proceedings in which the state or the county or any school district in the county may be a party;

(4) Prosecute all criminal and civil actions in which the state or the county may be a party, defend all suits brought against the state or the county, and prosecute actions upon forfeited recognizances and bonds and actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or the county;

(5) Attend and appear before and give advice to the grand jury when cases are presented to it for consideration and draw all indictments when required by the grand jury;

(6) Institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of felonies when the prosecuting attorney has information that any such offense has been committed and the prosecuting attorney shall for that purpose attend when required by them if the prosecuting attorney is not then in attendance upon the superior court;

(7) Carefully tax all cost bills in criminal cases and take care that no useless witness fees are taxed as part of the costs and that the officers authorized to execute process tax no other or greater fees than the fees allowed by law;

(8) Receive all cost bills in criminal cases before district judges at the trial of which the prosecuting attorney was not present, before they are lodged with the legislative authority for payment, whereupon the prosecuting attorney may retax the same and the prosecuting attorney must do so if the legislative authority deems any bill exorbitant or improperly taxed;

(9) Present all violations of the election laws which may come to the prosecuting attorney's knowledge to the special consideration of the proper jury;

(10) Examine once in each year the official bonds of all county and precinct officers and report to the legislative authority any defect in the bonds of any such officer;

(11) ((~~Make an annual report to the governor as of the 31st of December of each year setting forth the amount and nature of business transacted by the prosecuting attorney in that year with such other statements and suggestions as the prosecuting attorney may deem useful;~~

~~(12) Send to the state liquor control board at the end of each year a written report of all prosecutions brought under the state liquor laws in the county during the preceding year, showing in each case, the date of trial, name of accused, nature of charges, disposition of case, and the name of the judge presiding;~~

~~(13)~~)) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law.

Sec. 3. RCW 36.70A.180 and 1990 1st ex.s. c 17 s 19 are each amended to read as follows:

(((~~(1)~~))) It is the intent of the legislature that counties and cities required to adopt a comprehensive plan under RCW 36.70A.040(1) begin implementing this chapter on or before July 1, 1990, including but not limited to: (((~~(a)~~))) (1) Inventorying, designating, and conserving agricultural, forest, and mineral resource lands, and critical areas; and (((~~(b)~~))) (2) considering the modification or adoption of comprehensive land use plans and development regulations implementing the comprehensive land use plans. It is also the intent of the legislature that funds be made available to counties and cities beginning July 1, 1990, to assist them in meeting the requirements of this chapter.

((~~(2) Each county and city that adopts a plan under RCW 36.70A.040 (1) or (2) shall report to the department annually for a period of five years, beginning on January 1, 1991, and each five years thereafter, on the progress made by that county or city in implementing this chapter.~~))

***NEW SECTION.** Sec. 4. A new section is added to chapter 43.41 RCW to read as follows:*

(1) The legislature finds that over the years there have been a number of reporting requirements, mandates, and programs created that frequently duplicate the duties of local government, create additional expenses for state and local government, and can obscure responsibilities. The legislature establishes the process outlined in this section to recommend the elimination of obsolete, redundant, or unnecessary reports, mandates, and programs.

(2) The office must develop a process and criteria with statewide organizations representing cities and counties to conduct a review of reports, mandates, and programs that create additional expenses for state and local government. Every odd-numbered year, the office must submit recommendations to the legislature on which reports, programs, and mandates should be terminated or consolidated based upon the criteria developed with statewide organizations representing cities and counties. The report must state which criteria were relied upon with respect to each recommendation. The office must submit executive request legislation each odd-numbered year to implement the recommendations.

***Sec. 4 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 5.** The following acts or parts of acts are each repealed:

(1) RCW 35.21.687 (Affordable housing—Inventory of suitable housing) and 1995 c 399 s 37 & 1993 c 461 s 4; and

(2) RCW 36.34.137 (Affordable housing—Inventory of suitable property) and 1993 c 461 s 5.

Passed by the House April 10, 2012.
Passed by the Senate April 10, 2012.
Approved by the Governor May 2, 2012, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State May 2, 2012.

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

"I am returning herewith, without my approval as to Section 4, House Bill 2834 entitled:

"AN ACT Relating to providing cost savings for local governments by reducing a limited number of reporting requirements."

Section 4 contains two directives. The first requires the Office of Financial Management (OFM) to conduct a review of reports, programs, and mandates required of state and local governments to determine those that are obsolete or unnecessary. The second requires OFM to develop and submit executive request legislation to terminate specific reports, programs, and mandates based on the review. While I agree that conducting a sunset review of requirements imposed on state and local governments would be beneficial, I do not believe it is appropriate for the Legislature to mandate the content of executive request legislation. Article III, section 6 of the Washington Constitution provides that the Governor shall recommend to the Legislature such measures as the Governor deems expedient for their action. Section 4 is inconsistent with this constitutional provision and the constitutional separation of powers.

I will direct OFM to work with statewide organizations representing cities and counties to create a process to review reports, mandates, and programs that create additional expenses for state and local governments. OFM will report to the Governor and the Legislature and submit recommendations on executive request legislation to the Governor.

For this reason, I have vetoed Section 4 of House Bill 2834.

With the exception of Section 4, House Bill 2834 is approved."

CHAPTER 6

[Second Engrossed Second Substitute Senate Bill 6204]

COMMUNITY SUPERVISION

AN ACT Relating to community supervision; amending RCW 9.94A.631, 9.94A.704, 9.94A.706, 9.94A.714, 9.94A.716, 9.94A.737, 9.94A.740, 9.95.210, and 9.95.210; reenacting and amending RCW 9.94A.633; creating new sections; providing effective dates; providing expiration dates; and declaring an emergency.

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

Sec. 1. RCW 9.94A.631 and 2009 c 390 s 1 are each amended to read as follows:

(1) If an offender violates any condition or requirement of a sentence, a community corrections officer may arrest or cause the arrest of the offender without a warrant, pending a determination by the court or ((~~a department of corrections hearing officer~~)) by the department. If there is reasonable cause to believe that an offender has violated a condition or requirement of the sentence, a community corrections officer may require an offender to submit to a search

and seizure of the offender's person, residence, automobile, or other personal property.

(2) For the safety and security of department staff, an offender may be required to submit to pat searches, or other limited security searches, by community corrections officers, correctional officers, and other agency approved staff, without reasonable cause, when in or on department premises, grounds, or facilities, or while preparing to enter department premises, grounds, facilities, or vehicles. Pat searches of offenders shall be conducted only by staff who are the same gender as the offender, except in emergency situations.

(3) A community corrections officer may also arrest an offender for any crime committed in his or her presence. The facts and circumstances of the conduct of the offender shall be reported by the community corrections officer, with recommendations, to the court ((~~or department of corrections hearing officer~~)), local law enforcement, or local prosecution for consideration of new charges. The community corrections officer's report shall serve as the notice that the department will hold the offender for not more than three days from the time of such notice for the new crime, except if the offender's underlying offense is a felony offense listed in RCW 9.94A.737(5), in which case the department will hold the offender for thirty days from the time of arrest or until a prosecuting attorney charges the offender with a crime, whichever occurs first. This does not affect the department's authority under RCW 9.94A.737.

If a community corrections officer arrests or causes the arrest of an offender under this section, the offender shall be confined and detained in the county jail of the county in which the offender was taken into custody, and the sheriff of that county shall receive and keep in the county jail, where room is available, all prisoners delivered to the jail by the community corrections officer, and such offenders shall not be released from custody on bail or personal recognizance, except upon approval of the court or authorized department staff, pursuant to a written order.

Sec. 2. RCW 9.94A.633 and 2010 c 258 s 1 and 2010 c 224 s 12 are each reenacted and amended to read as follows:

(1)(a) An offender who violates any condition or requirement of a sentence may be sanctioned by the court with up to sixty days' confinement for each violation or by the department with up to thirty days' confinement as provided in RCW 9.94A.737.

(b) In lieu of confinement, an offender may be sanctioned with work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other community-based sanctions ((~~available in the community~~)).

(2) If an offender was under community custody pursuant to one of the following statutes, the offender may be sanctioned as follows:

(a) If the offender was transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.728, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(b) If the offender was sentenced under the drug offender sentencing alternative set out in RCW 9.94A.660, the offender may be sanctioned in accordance with that section.

(c) If the offender was sentenced under the parenting sentencing alternative set out in RCW 9.94A.655, the offender may be sanctioned in accordance with that section.

(d) If the offender was sentenced under the special sex offender sentencing alternative set out in RCW 9.94A.670, the suspended sentence may be revoked and the offender committed to serve the original sentence of confinement.

(e) If the offender was sentenced to a work ethic camp pursuant to RCW 9.94A.690, the offender may be reclassified to serve the unexpired term of his or her sentence in total confinement.

(f) If a sex offender was sentenced pursuant to RCW 9.94A.507, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(3) If a probationer is being supervised by the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be sanctioned pursuant to subsection (1) of this section. The department shall have authority to issue a warrant for the arrest of an offender who violates a condition of community custody, as provided in RCW 9.94A.716. Any sanctions shall be imposed by the department pursuant to RCW 9.94A.737. ((~~The department shall provide a copy of the violation hearing report to the sentencing court in a timely manner.~~)) Nothing in this subsection is intended to limit the power of the sentencing court to respond to a probationer's violation of conditions.

(4) The parole or probation of an offender who is charged with a new felony offense may be suspended and the offender placed in total confinement pending disposition of the new criminal charges if:

(a) The offender is on parole pursuant to RCW 9.95.110(1); or

(b) The offender is being supervised pursuant to RCW 9.94A.745 and is on parole or probation pursuant to the laws of another state.

Sec. 3. RCW 9.94A.704 and 2009 c 375 s 6 are each amended to read as follows:

(1) Every person who is sentenced to a period of community custody shall report to and be placed under the supervision of the department, subject to RCW 9.94A.501.

(2)(a) The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of community custody based upon the risk to community safety.

(b) Within the funds available for community custody, the department shall determine conditions on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection (2)(b).

(3) If the offender is supervised by the department, the department shall at a minimum instruct the offender to:

(a) Report as directed to a community corrections officer;

(b) Remain within prescribed geographical boundaries;

(c) Notify the community corrections officer of any change in the offender's address or employment;

(d) Pay the supervision fee assessment; and

(e) Disclose the fact of supervision to any mental health or chemical dependency treatment provider, as required by RCW 9.94A.722.

(4) The department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws.

(5) If the offender was sentenced pursuant to a conviction for a sex offense, the department may impose electronic monitoring. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

(6) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions.

(7)(a) The department shall notify the offender in writing of any additional conditions or modifications.

(b) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the offender's risk of reoffending, or the safety of the community.

(8) The department shall notify the offender in writing upon community custody intake of the department's violation process.

(9) The department may require offenders to pay for special services rendered including electronic monitoring, day reporting, and telephone reporting, dependent on the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

((~~(9)~~)) (10)(a) When a sex offender has been sentenced pursuant to RCW 9.94A.507, the department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions based upon the offender's risk to community safety and may recommend affirmative conduct or electronic monitoring consistent with subsections (4) through (6) of this section.

(b) The board may impose conditions in addition to court-ordered conditions. The board must consider and may impose department-recommended conditions.

(c) By the close of the next business day, after receiving notice of a condition imposed by the board or the department, an offender may request an administrative hearing under rules adopted by the board. The condition shall remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

(i) The crime of conviction;

(ii) The offender's risk of reoffending;

(iii) The safety of the community.

(d) If the department finds that an emergency exists requiring the immediate imposition of additional conditions in order to prevent the offender from committing a crime, the department may impose such conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board.

(((~~(10)~~))) (11) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

Sec. 4. RCW 9.94A.706 and 2008 c 231 s 11 are each amended to read as follows:

(1) No offender sentenced to a term of community custody under the supervision of the department may own, use, or possess firearms ((~~or~~)), ammunition, or explosives. ((~~Offenders who own, use, or are found to be in~~)) An offender's actual or constructive possession of firearms ((~~or~~)), ammunition, or explosives shall be ((~~subject to the violation process and~~)) reported to local law enforcement or local prosecution for consideration of new charges and subject to sanctions under RCW 9.94A.633((~~, 9.94A.716, and~~)) or 9.94A.737.

(2) For the purposes of this section:

(a) "Constructive possession" ((~~as used in this section~~)) means the power and intent to control the firearm ((~~or~~)), ammunition, or explosives.

(b) "Explosives" has the same definition as in RCW 46.04.170.

(c) "Firearm" ((~~as used in this section~~)) has the same definition as in RCW 9.41.010.

Sec. 5. RCW 9.94A.714 and 2008 c 231 s 16 are each amended to read as follows:

(1) ((~~If an offender has not completed his or her maximum term of total confinement and is subject to a third violation hearing pursuant to RCW 9.94A.737 for any violation of community custody and is found to have committed the violation, the department shall return the offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence, unless it is determined that returning the offender to a state correctional facility would substantially interfere with the offender's ability to maintain necessary community supports or to participate in necessary treatment or programming and would substantially increase the offender's likelihood of reoffending.~~

(~~(2)~~))) The department may work with the Washington association of sheriffs and police chiefs to establish and operate an electronic monitoring program for ((~~low-risk~~)) offenders who violate the terms of their community custody.

(((~~(3)~~))) (2) Local governments, their subdivisions and employees, the department and its employees, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving ((~~low-risk~~)) offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith.

Sec. 6. RCW 9.94A.716 and 2008 c 231 s 21 are each amended to read as follows:

(1) The secretary may issue warrants for the arrest of any offender who violates a condition of community custody. The arrest warrants shall authorize any law enforcement or peace officer or community corrections officer of this state or any other state where such offender may be located, to arrest the offender and place him or her in total confinement pending disposition of the alleged violation pursuant to RCW 9.94A.633.

(2) A community corrections officer, if he or she has reasonable cause to believe an offender has violated a condition of community custody, may suspend the person's community custody status and arrest or cause the arrest and detention in total confinement of the offender, pending the determination of the secretary as to whether the violation has occurred. The community corrections officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending community custody status.

(3) If an offender has been arrested by the department for a new felony offense while under community custody, the ((~~department shall hold the offender in total confinement until a hearing before the department as provided in this section or until the offender has been formally charged for the new felony offense, whichever is earlier~~)) facts and circumstances of the conduct of the offender shall be reported by the community corrections officer to local law enforcement or local prosecution for consideration of new charges. The community corrections officer's report shall serve as notice that the department will hold the offender in total confinement for not more than three days from the time of such notice for the new crime, except if the offender's underlying offense is a felony offense listed in RCW 9.94A.737(5), in which case the department will hold the offender for thirty days from the time of arrest or until a prosecuting attorney charges the offender with a crime, whichever occurs first. Nothing in this subsection shall be construed as to permit the department to hold an offender past his or her maximum term of total confinement if the offender has not completed the maximum term of total confinement or to permit the department to hold an offender past the offender's term of community custody.

(4) A violation of a condition of community custody shall be deemed a violation of the sentence for purposes of RCW 9.94A.631. The authority granted to community corrections officers under this section shall be in addition to that set forth in RCW 9.94A.631.

Sec. 7. RCW 9.94A.737 and 2008 c 231 s 20 are each amended to read as follows:

(1) If an offender is accused of violating any condition or requirement of community custody, ((~~he or she is entitled to a hearing before the department prior to the imposition of sanctions. The hearing shall be considered as~~)) the department shall address the violation behavior. The department may hold offender disciplinary proceedings ((~~and shall~~)) not ((~~be~~)) subject to chapter 34.05 RCW. The department shall ((~~develop hearing procedures and a structure of graduated sanctions~~)) notify the offender in writing of the violation process.

(2) ((~~The hearing procedures required under subsection (1) of this section shall be developed by rule and include the following:~~)) (a) The offender's violation behavior shall determine the sanction the department imposes. The department shall adopt rules creating a structured violation process that includes

presumptive sanctions, aggravating and mitigating factors, and definitions for low level violations and high level violations.

(b) After an offender has committed and been sanctioned for five low level violations, all subsequent violations committed by that offender shall automatically be considered high level violations.

(c)(i) The department must define aggravating factors that indicate the offender may present a current and ongoing foreseeable risk and which therefore, elevate an offender's behavior to a high level violation process.

(ii) The state and its officers, agents, and employees may not be held criminally or civilly liable for a decision to elevate or not to elevate an offender's behavior to a high level violation process under this subsection unless the state or its officers, agents, and employees acted with reckless disregard.

(3) The department may intervene when an offender commits a low level violation as follows:

(a) For a first low level violation, the department may sanction the offender to one or more nonconfinement sanctions.

(b) For a second or subsequent low level violation, the department may sanction the offender to not more than three days in total confinement.

(i) The department shall develop rules to ensure that each offender subject to a short term confinement sanction is provided the opportunity to respond to the alleged violation prior to imposition of total confinement.

(ii) The offender may appeal the short term confinement sanction to a panel of three reviewing officers designated by the secretary or by the secretary's designee. The offender's appeal must be in writing and hand-delivered to department staff, or postmarked, within seven days after the sanction is imposed.

(4) If an offender is accused of committing a high level violation, the department may sanction the offender to not more than thirty days in total confinement per hearing.

(a) The offender is entitled to a hearing prior to the imposition of sanctions; and

(b) The offender may be held in total confinement pending a sanction hearing. Prehearing time served must be credited to the offender's sanction time.

(5) If the offender's underlying offense is one of the following felonies and the violation behavior constitutes a new misdemeanor, gross misdemeanor or felony, the offender shall be held in total confinement pending a sanction hearing, and until the sanction expires or until if a prosecuting attorney files new charges against the offender, whichever occurs first:

(a) Assault in the first degree, as defined in RCW 9A.36.011;

(b) Assault of a child in the first degree, as defined in RCW 9A.36.120;

(c) Assault of a child in the second degree, as defined in RCW 9A.36.130;

(d) Burglary in the first degree, as defined in RCW 9A.52.020;

(e) Child molestation in the first degree, as defined in RCW 9A.44.083;

(f) Commercial sexual abuse of a minor, as defined in RCW 9.68A.100;

(g) Dealing in depictions of a minor engaged in sexually explicit conduct, as defined in RCW 9.68A.050;

(h) Homicide by abuse, as defined in RCW 9A.32.055;

(i) Indecent liberties with forcible compulsion, as defined in RCW 9A.44.100(1)(a);

(j) Indecent liberties with a person capable of consent, as defined in RCW 9A.44.100(1)(b);

(k) Kidnapping in the first degree, as defined in RCW 9A.40.020;

(l) Murder in the first degree, as defined in RCW 9A.32.030;

(m) Murder in the second degree, as defined in RCW 9A.32.050;

(n) Promoting commercial sexual abuse of a minor, as defined in RCW 9.68A.101;

(o) Rape in the first degree, as defined in RCW 9A.44.040;

(p) Rape in the second degree, as defined in RCW 9A.44.050;

(q) Rape of a child in the first degree, as defined in RCW 9A.44.073;

(r) Rape of a child in the second degree, as defined in RCW 9A.44.076;

(s) Robbery in the first degree, as defined in RCW 9A.56.200;

(t) Sexual exploitation of a minor, as defined in RCW 9.68A.040; or

(u) Vehicular homicide while under the influence of intoxicating liquor or any drug, as defined in RCW 46.61.520(1)(a).

(6) The department shall adopt rules creating hearing procedures for high level violations. The hearings are offender disciplinary proceedings and are not subject to chapter 34.05 RCW. The procedures shall include the following:

(a) ((~~Hearing officers shall report through a chain of command separate from that of community corrections officers;~~

~~(b)~~)) The department shall provide the offender with written notice of the alleged violation((~~,~~)) and the evidence ((~~relied upon, and the reasons the particular sanction was imposed~~)) supporting it. The notice ((~~shall~~)) must include a statement of the rights specified in this subsection, and the offender's right to file a personal restraint petition under court rules after the final decision ((~~of the department~~));

(((~~(c) The hearing shall be held~~)) (b) Unless ((~~waived by~~)) the offender waives the right to a hearing, the department shall hold a hearing, and shall ((~~be~~)) record it electronically ((~~recorded~~)). For offenders not in total confinement, the department shall hold a hearing ((~~shall be held~~)) within fifteen ((~~working~~)) business days, but not less than twenty-four hours, after written notice of the alleged violation. For offenders in total confinement, the department shall hold a hearing ((~~shall be held~~)) within five ((~~working~~)) business days, but not less than twenty-four hours, after written notice of the alleged violation;

(((~~(d)~~))) (c) The offender shall have the right to: (i) Be present at the hearing; (ii) have the assistance of a person qualified to assist the offender in the hearing, appointed by the hearing officer if the offender has a language or communications barrier; (iii) testify or remain silent; (iv) call witnesses and present documentary evidence; ((~~and~~)) (v) question witnesses who appear and testify; and (vi) receive a written summary of the reasons for the hearing officer's decision; and

(((~~(e)~~))) (d) The sanction shall take effect if affirmed by the hearing officer. ((~~Within seven days after the hearing officer's decision, the offender may appeal the decision~~)) The offender may appeal the sanction to a panel of three reviewing officers designated by the secretary or by the secretary's designee. The offender's appeal must be in writing and hand-delivered to department staff, or postmarked, within seven days after the sanction was imposed. The ((~~sanction shall be reversed or modified~~)) appeals panel shall affirm, reverse, modify,

vacate, or remand based on its findings. If a majority of the panel finds that the sanction was not reasonably related to any of the following: (i) The crime of conviction; (ii) the violation committed; (iii) the offender's risk of reoffending; or (iv) the safety of the community, then the panel will reverse, vacate, remand, or modify the sanction.

(((~~(3)~~))) (7) For purposes of this section, ((~~no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations~~)) the hearings officer may not rely on unconfirmed or unconfirmable allegations to find that the offender violated a condition.

(8) Hearing officers shall report through a chain of command separate from that of community corrections officers.

Sec. 8. RCW 9.94A.740 and 2008 c 231 s 22 are each amended to read as follows:

(1) When an offender is arrested pursuant to RCW 9.94A.631 or 9.94A.716, the department shall compensate the local jurisdiction at the office of financial management's adjudicated rate, in accordance with RCW 70.48.440, until the department releases its detainer.

(2) Inmates, as defined in RCW 72.09.015, who have been transferred to community custody and who are detained in a local correctional facility are the financial responsibility of the department of corrections, except as provided in subsection (3) of this section.

(3) For confinement sanctions imposed by the department under RCW 9.94A.670, the local correctional facility shall be financially responsible.

(4) The department, in consultation with the Washington association of sheriffs and police chiefs and those counties in which the sheriff does not operate a correctional facility, shall establish a methodology for determining the department's local correctional facilities bed utilization rate, for each county in calendar year 1998, for offenders being held for violations of conditions of community custody.

(5) Except as provided in subsections (1) and (2) of this section, the local correctional facility shall continue to be financially responsible to the extent of the calendar year 1998 bed utilization rate for confinement sanctions imposed by the department pursuant to RCW 9.94A.737. If the department's use of bed space in local correctional facilities of any county for such confinement sanctions exceeds the 1998 bed utilization rate for the county, the department shall compensate the county for the excess use at the per diem rate equal to the lowest rate charged by the county under its contract with a municipal government during the year in which the use occurs.

Sec. 9. RCW 9.95.210 and 2011 1st sp.s. c 40 s 7 are each amended to read as follows:

(1) In granting probation, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(2) In the order granting probation and as a condition thereof, the superior court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of

probation, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required; (d) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.

(3) The superior court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the superior court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the superior court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the superior court shall hold a restitution hearing and shall enter a restitution order.

(4) In granting probation, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary <u>for up to twelve months</u>. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanant probationers within its jurisdiction, the superior court misdemeanant probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanant probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If the probationer has been ordered to make restitution and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the superior court has ordered supervision and restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation. For defendants found guilty in district court, like functions as the secretary performs in regard to

probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

(6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to sentences imposed under this section.

Sec. 10. RCW 9.95.210 and 2012 c 183 s 4 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection in granting probation, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(b) For a defendant sentenced under RCW 46.61.5055, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension continue upon such conditions and for such time as the court shall designate, not to exceed five years. The court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. Any time before entering an order terminating probation, the court may modify or revoke its order suspending the imposition or execution of the sentence if the defendant violates or fails to carry out any of the conditions of the suspended sentence.

(2) In the order granting probation and as a condition thereof, the superior court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required; (d) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.

(3) The superior court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68

RCW. If the superior court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the superior court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the superior court shall hold a restitution hearing and shall enter a restitution order.

(4) In granting probation, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary for up to twelve months. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanant probationers within its jurisdiction, the superior court misdemeanant probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanant probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If the probationer has been ordered to make restitution and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the superior court has ordered supervision and restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation. For defendants found guilty in district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

(6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to sentences imposed under this section.

NEW SECTION. **Sec. 11.** (1)(a) Research shows that traditional mechanisms of surveillance-based supervision and sanctioning are ineffective in reducing recidivism or improving public safety. The legislature is persuaded by recent studies showing that swift and certain sanctions, in combination with treatment-based interventions that address chemical dependency and criminogenic behaviors, are a more effective and efficient use of public resources to affect future crime.

(b) Notwithstanding, this is a new approach for Washington. It is imperative to the success of the state's system of offender supervision that the department of corrections be vigilant in:

(i) Monitoring the quality and consistency of applying swift and certain sanctions across the state;

(ii) Ensuring that sanctions are commensurate with identified behaviors and, to the extent possible, produce satisfactory results;

(iii) Applying evidence-based treatment and evaluation principles to address offenders' criminogenic and chemical dependency needs and therefore pairing the offender with the appropriate treatment; and

(iv) Maintaining good relations and open communication with law enforcement to assist in identifying offenders that pose the greatest risk to public safety.

(2) In implementing the provisions of this act, the department of corrections is directed to:

(a) Form stakeholder groups, that may include but are not limited to local community corrections officers, law enforcement, prosecuting attorneys, superior court judges, chemical dependency treatment and other community providers, and victim advocates;

(b) Within available resources, provide inpatient or outpatient chemical dependency treatment to offenders initially assessed as in need of treatment based on an evaluation of the offender's needs by a certified staff or chemical dependency provider utilizing evidence-based tools for evaluation;

(c) Perform outreach to the criminal justice training commission and local law enforcement agencies to ensure law enforcement is informed of changes in procedures for holding offenders pending the filing of charges for a new crime and establish ongoing channels of communication with local law enforcement for conveying information about individual offenders who have committed new crimes;

(d) Survey community corrections officers on a periodic basis to gather input and suggestions.

(3) The department shall report to the governor, appropriate committees of the legislature, and the stakeholder groups as identified in subsection (2)(a) of this section on its progress and activities in implementing this act, steps taken to improve the efficacy of chemical dependency treatment, evidence of outcomes achieved as reported by providers through submission of performance measure data, and including any recommended changes in legislation, no later than December 1, 2012, and December 1, 2013.

(4) This section expires December 31, 2013.

NEW SECTION. **Sec. 12.** This act applies retroactively and prospectively regardless of the date of an offender's underlying offense.

NEW SECTION. **Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 14.** Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 15.** Sections 1, 3 through 9, and 11 through 14 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 June 1, 2012.

NEW SECTION. **Sec. 16.** Section 9 of this act expires August 1, 2012.

NEW SECTION. **Sec. 17.** Section 10 of this act takes effect August 1, 2012.

Passed by the Senate April 10, 2012.
Passed by the House April 10, 2012.

Approved by the Governor May 2, 2012.
Filed in Office of Secretary of State May 2, 2012.

CHAPTER 7

[Second Engrossed Senate Bill 6378]
STATE RETIREMENT—NEW MEMBERS

AN ACT Relating to benefits and contributions for new members of the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system; amending RCW 41.32.765, 41.32.875, 41.35.420, 41.35.680, 41.40.630, 41.40.820, and 41.45.035; and creating a new section.

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

Sec. 1. RCW 41.32.765 and 2007 c 491 s 2 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years of service who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%

62	0%
63	0%
64	0%

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.32.802(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.32.800(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 2, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 2. RCW 41.32.875 and 2007 c 491 s 4 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or

(c) Completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.32.862(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.32.860(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 4, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or

repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 3. RCW 41.35.420 and 2007 c 491 s 6 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.35.060(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.35.230(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 6, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced

by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 4. RCW 41.35.680 and 2007 c 491 s 8 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or

(c) Completed five service credit years by September 1, 2000, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.35.510;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.35.060(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.35.230(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 8, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 5. RCW 41.40.630 and 2007 c 491 s 9 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after July 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.40.037(2)(d) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.40.690(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 9, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and

the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 6. RCW 41.40.820 and 2007 c 491 s 10 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or

(c) Completed five service credit years by the transfer payment date specified in RCW 41.40.795, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.40.795;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after July 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.40.037(2)(d) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.40.850(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 10, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced

by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 7. RCW 41.45.035 and 2009 c 561 s 2 are each amended to read as follows:

(1) Beginning July 1, 2001, the following long-term economic assumptions shall be used by the state actuary for the purposes of RCW 41.45.030:

(a) The growth in inflation assumption shall be 3.5 percent;

(b) The growth in salaries assumption, exclusive of merit or longevity increases, shall be 4.5 percent;

(c) The investment rate of return assumption shall be 8 percent; and

(d) The growth in system membership assumption shall be 1.25 percent for the public employees' retirement system, the public safety employees' retirement system, the school employees' retirement system, and the law enforcement officers' and firefighters' retirement system. The assumption shall be .90 percent for the teachers' retirement system.

(2) Beginning July 1, 2009, the growth in salaries assumption for the public employees' retirement system, the public safety employees' retirement system, the teachers' retirement system, the school employees' retirement system, plan 1 of the law enforcement officers' and firefighters' retirement system, and the Washington state patrol retirement system, exclusive of merit or longevity increases, shall be the sum of:

(a) The growth in inflation assumption in subsection (1)(a) of this section; and

(b) The productivity growth assumption of 0.5 percent.

(3) The following investment rate of return assumptions for the public employees' retirement system, the public safety employees' retirement system, the teachers' retirement system, the school employees' retirement system, plan 1 of the law enforcement officers' and firefighters' retirement system, and the Washington state patrol retirement system, shall be used by the state actuary for the purposes of RCW 41.45.030:

(a) Beginning July 1, 2013, the investment rate of return assumption shall be 7.9 percent.

(b) Beginning July 1, 2015, the investment rate of return assumption shall be 7.8 percent.

(c) Beginning July 1, 2017, the investment rate of return assumption shall be 7.7 percent.

(d) For valuation purposes, the state actuary shall only use the assumptions in (a) through (c) of this subsection after the effective date in (a) through (c) of this subsection.

(e) By June 1, 2017, the state actuary shall submit to the council information regarding the experience and financial condition of each state retirement system, and make recommendations regarding the long-term investment rate of return assumptions set forth in this subsection. The council shall review this and such other information as it may require.

(4)(a) Beginning with actuarial studies done after July 1, 2003, changes to plan asset values that vary from the long-term investment rate of return assumption shall be recognized in the actuarial value of assets over a period that varies up to eight years depending on the magnitude of the deviation of each year's investment rate of return relative to the long-term rate of return

assumption. Beginning with actuarial studies performed after July 1, 2004, the actuarial value of assets shall not be greater than one hundred thirty percent of the market value of assets as of the valuation date or less than seventy percent of the market value of assets as of the valuation date. Beginning April 1, 2004, the council, by affirmative vote of four councilmembers, may adopt changes to this asset value smoothing technique. Any changes adopted by the council shall be subject to revision by the legislature.

(b) The state actuary shall periodically review the appropriateness of the asset smoothing method in this section and recommend changes to the council as necessary. Any changes adopted by the council shall be subject to revision by the legislature.

NEW SECTION. **Sec. 8.** The select committee on pension policy, with the assistance of the department of labor and industries, shall study the issue of risk classifications of employees in the Washington state retirement systems that entail either high degrees of physical or psychological risk to the members' own safety or unusually high physical requirements that result in elevated risks of injury or disablement for older employees. The select committee on pension policy, with the assistance of the office of the superintendent of public instruction, shall also study existing early retirement factors and job requirements that may limit the effectiveness of the older classroom employee. The study shall identify groups and evaluate them for inclusion in the public safety employees' retirement system or the creation of other early retirement factors in the teachers' or school employees' retirement systems. The select committee on pension policy shall report the findings and recommendations of its study to the legislative fiscal committees by no later than December 15, 2012.

Passed by the Senate April 10, 2012.
Passed by the House April 10, 2012.
Approved by the Governor May 2, 2012.
Filed in Office of Secretary of State May 2, 2012.

CHAPTER 8

[Substitute Senate Bill 6636]

BALANCED STATE BUDGET

AN ACT Relating to requiring a balanced state budget for the current and ensuing fiscal biennium; amending RCW 82.33.010 and 82.33.020; adding a new section to chapter 43.88 RCW; and adding new sections to chapter 82.33 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.88 RCW to read as follows:

(1) The legislature must adopt a four-year balanced budget as follows:

(a) Beginning in the 2013-2015 fiscal biennium, the legislature shall enact a balanced omnibus operating appropriations bill that leaves, in total, a positive ending fund balance in the general fund and related funds.

(b) Beginning in the 2013-2015 fiscal biennium, the projected maintenance level of the omnibus appropriations bill enacted by the legislature shall not exceed the available fiscal resources for the next ensuing fiscal biennium.

(2) For purposes of this section:

(a) "Available fiscal resources" means the beginning general fund and related fund balances and any fiscal resources estimated for the general fund and related funds, adjusted for enacted legislation, and with forecasted revenues adjusted to the greater of (i) the official general fund and related funds revenue forecast for the ensuing biennium, or (ii) the official general fund and related funds forecast for the second fiscal year of the current fiscal biennium, increased by 4.5 percent for each fiscal year of the ensuing biennium;

(b) "Projected maintenance level" means estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in that appropriations bill or mandated by other state or federal law, and the amount of any general fund moneys projected to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution, but does not include in the 2013-2015 and 2015-2017 fiscal biennia the costs related to the enhanced funding under the new definition of basic education as established in chapter 548, Laws of 2009, and affirmed by the decision in *Mathew McCleary et al., v. The State of Washington*, 173 Wn.2d 477, 269 P.3d 227, (2012), from which the short-term exclusion of these obligations is solely for the purposes of calculating this estimate and does not in any way indicate an intent to avoid full funding of these obligations;

(c) "Related funds," as used in this section, means the Washington opportunity pathways account and the education legacy trust account.

(3) Subsection (1)(a) and (b) of this section does not apply to an appropriations bill that makes net reductions in general fund and related funds appropriations and is enacted between July 1st and February 15th of any fiscal year.

(4) Subsection (1)(b) of this section does not apply in a fiscal biennium in which money is appropriated from the budget stabilization account.

Sec. 2. RCW 82.33.010 and 1990 c 229 s 1 are each amended to read as follows:

(1) The economic and revenue forecast council is hereby created. The council shall consist of two individuals appointed by the governor, the state treasurer, and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ an economic and revenue forecast supervisor to supervise the preparation of all economic and revenue forecasts and the presentation of state budget outlooks. As used in this chapter, "supervisor" means the economic and revenue forecast supervisor. Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(3) The economic and revenue forecast council shall oversee the preparation of and approve, by an affirmative vote of at least ((~~four~~)) five members, the

official, optimistic, and pessimistic state economic and revenue forecasts prepared under RCW 82.33.020. If the council is unable to approve a forecast before a date required in RCW 82.33.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(4) The economic and revenue forecast council shall oversee the preparation of and approve, by an affirmative vote of at least five members, the state budget outlook prepared under section 4 of this act. If the council is unable to approve a state budget outlook before a date required in section 4 of this act, the supervisor shall submit the outlook prepared under section 4 of this act without approval and the outlook shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official economic and revenue forecast or the state budget outlook may request, and the supervisor shall provide, an alternative economic and revenue forecast or state budget outlook based on assumptions specified by the member including, for purposes of the state budget outlook, revenues to and expenditures from additional funds.

((~~(5)~~)) (6) Members of the economic and revenue forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Sec. 3. RCW 82.33.020 and 2005 c 319 s 137 are each amended to read as follows:

(1) Four times each year the supervisor shall prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010:

(a) An official state economic and revenue forecast;

(b) An unofficial state economic and revenue forecast based on optimistic economic and revenue projections; and

(c) An unofficial state economic and revenue forecast based on pessimistic economic and revenue projections.

(2) The supervisor shall submit forecasts prepared under this section, along with any unofficial forecasts provided under RCW 82.33.010, to the governor and the members of the committees on ways and means and the chairs of the committees on transportation of the senate and house of representatives, including one copy to the staff of each of the committees, on or before November 20th, February 20th in the even-numbered years, March 20th in the odd-numbered years, June 20th, and September 20th. All forecasts shall include both estimated receipts and estimated revenues in conformance with generally accepted accounting principles as provided by RCW 43.88.037. In odd-numbered years, the period covered by forecasts for the state general fund and related funds must cover the current fiscal biennium and the next ensuing fiscal biennium. In even-numbered years, the period covered by the forecasts for the state general fund and related funds shall be current fiscal and the next two ensuing fiscal biennia.

(3) All agencies of state government shall provide to the supervisor immediate access to all information relating to economic and revenue forecasts.

Revenue collection information shall be available to the supervisor the first business day following the conclusion of each collection period.

(4) The economic and revenue forecast supervisor and staff shall co-locate and share information, data, and files with the tax research section of the department of revenue but shall not duplicate the duties and functions of one another.

(5) As part of its forecasts under subsection (1) of this section, the supervisor shall provide estimated revenue from tuition fees as defined in RCW 28B.15.020.

(6) The economic and revenue forecast council must, in consultation with the economic and revenue forecast work group created in RCW 82.33.040, review the existing economic and revenue forecast council revenue model, data, and methodologies and in light of recent economic changes, engage outside experts if necessary, and recommend changes to the economic and revenue forecast council revenue forecasting process to increase confidence and promote accuracy in the revenue forecast. The recommendations are due by September 30, 2012, and every five years thereafter.

NEW SECTION. **Sec. 4.** A new section is added to chapter 82.33 RCW to read as follows:

(1) To facilitate compliance with, and subject to the terms of, section 1 of this act, the state budget outlook work group shall prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010, an official state budget outlook for state revenues and expenditures for the general fund and related funds. In odd-numbered years, the period covered by the November state budget outlook shall be the current fiscal biennium and the next ensuing fiscal biennium. In even-numbered years, the period covered by the November state budget outlook shall be the next two ensuing fiscal biennia. The revenue and caseload projections used in the outlook must reflect the most recent official forecasts adopted by the economic and revenue forecast council and the caseload forecast council for the years for which those forecasts are available.

(2) The outlook must:

(a) Estimate revenues to and expenditures from the state general fund and related funds. The estimate of ensuing biennium expenditures must include maintenance items including, but not limited to, continuation of current programs, forecasted growth of current entitlement programs, and actions required by law, including legislation with a future implementation date. Estimates of ensuing biennium expenditures must exclude policy items including, but not limited to, legislation not yet enacted by the legislature, collective bargaining agreements not yet approved by the legislature, and changes to levels of funding for employee salaries and benefits unless those changes are required by statute. Estimated maintenance level expenditures must also exclude costs of court rulings issued during or within fewer than ninety days before the beginning of the current legislative session;

(b) Address major budget and revenue drivers, including trends and variability in these drivers;

(c) Clearly state the assumptions used in the estimates of baseline and projected expenditures and any adjustments made to those estimates;

(d) Clearly state the assumptions used in the baseline revenue estimates and any adjustments to those estimates; and

(e) Include the impact of previously enacted legislation with a future implementation date.

(3) The outlook must also separately include projections based on the revenues and expenditures proposed in the governor's budget documents submitted to the legislature under RCW 43.88.030.

(4) The economic and revenue forecast council shall submit state budget outlooks prepared under this section to the governor and the members of the committees on ways and means of the senate and house of representatives, including one copy to the staff of each of the committees, as required by this section.

(5) Each January, the state budget outlook work group shall also prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the governor's proposed budget document submitted to the legislature under chapter 43.88 RCW. Within thirty days following enactment of an operating budget by the legislature, the work group shall prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the enacted budget.

(6) All agencies of state government shall provide to the supervisor immediate access to all information relating to state budget outlooks.

(7) The state budget outlook work group must publish its proposed methodology on the economic and revenue forecast council web site. The state budget outlook work group, in consultation with the economic and revenue forecast work group and outside experts if necessary, must analyze the extent to which the proposed methodology for projecting expenditures for the ensuing fiscal biennia may be reliably used to determine the future impact of appropriations and make recommendations to change the outlook process to increase reliability and accuracy. The recommendations are due by December 1, 2013, and every five years thereafter.

NEW SECTION. **Sec. 5.** A new section is added to chapter 82.33 RCW to read as follows:

(1) To promote the free flow of information and to promote legislative input in the preparation of the state budget outlook, immediate access to all information relating to the state budget outlook shall be available to the state budget outlook work group, hereby created. The state budget outlook work group shall consist of one staff member selected by the executive head or chairperson of each of the following agencies or committees:

(a) Office of financial management;

(b) Legislative evaluation and accountability program committee;

(c) Office of the state treasurer;

(d) Economic and revenue forecast council;

(e) Caseload forecast council;

(f) Ways and means committee of the senate; and

(g) Ways and means committee of the house of representatives.

(2) The state budget outlook work group shall provide technical support to the economic and revenue forecast council. Meetings of the state budget outlook work group may be called by any member of the group for the purpose of

assisting the economic and revenue forecast council, reviewing the state budget outlook, or for any other purpose which may assist the economic and revenue forecast council.

NEW SECTION. **Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate April 10, 2012.
Passed by the House April 10, 2012.
Approved by the Governor May 2, 2012.
Filed in Office of Secretary of State May 2, 2012.

CHAPTER 9

[House Bill 2822]

LOCAL SALES AND USE TAX ACCOUNT—DEPOSITS AND DISTRIBUTIONS

AN ACT Relating to local sales and use tax account deposits and distributions; and amending RCW 82.14.050.

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

Sec. 1. RCW 82.14.050 and 2009 c 469 s 107 are each amended to read as follows:

(1) The counties, cities, and transportation authorities under RCW 82.14.045, public facilities districts under chapters 36.100 and 35.57 RCW, public transportation benefit areas under RCW 82.14.440, regional transportation investment districts, and transportation benefit districts under chapter 36.73 RCW ((~~shall~~)) must contract, prior to the effective date of a resolution or ordinance imposing a sales and use tax, the administration and collection to the state department of revenue, which ((~~shall~~)) must deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by this chapter that is collected by the department of revenue ((~~shall~~)) must be deposited by the state department of revenue in the local sales and use tax account hereby created in the state treasury. Beginning January 1, 2013, the department of revenue must make deposits in the local sales and use tax account on a monthly basis on the last business day of the month in which distributions required in (a) of this subsection are due. Moneys in the local sales and use tax account may be withdrawn only for:

(a) Distribution to counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts imposing a sales and use tax; and

(b) Making refunds of taxes imposed under the authority of this chapter and RCW 81.104.170 and exempted under RCW 82.08.962 and 82.12.962.

(2) All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or may hereafter be amended, ((~~shall,~~)) insofar as they are applicable to state sales and use taxes, ((~~be~~)) are applicable to taxes imposed pursuant to this chapter.

(3) Counties, cities, transportation authorities, public facilities districts, and regional transportation investment districts may not conduct independent sales or use tax audits of sellers registered under the streamlined sales tax agreement.

(4) Except as provided in RCW 43.08.190 and subsection (5) of this section, all earnings of investments of balances in the local sales and use tax account ((~~shall~~)) must be credited to the local sales and use tax account and distributed to the counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts monthly.

(5) Beginning January 1, 2013, the state treasurer must determine the amount of earnings on investments that would have been credited to the local sales and use tax account if the collections had been deposited in the account over the prior month. When distributions are made under subsection (1)(a) of this section, the state treasurer must transfer this amount from the state general fund to the local sales and use tax account and must distribute such sums to the counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts.

Passed by the House April 5, 2012.
Passed by the Senate April 10, 2012.
Approved by the Governor May 2, 2012.
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CHAPTER 10

[House Bill 2824]

EDUCATION FUNDING

AN ACT Relating to addressing comprehensive funding for education by developing a plan for full funding and by freeing certain existing revenues for support of the basic education program; amending RCW 28A.600.405, 43.135.045, 67.70.340, and 83.100.230; reenacting and amending RCW 28A.150.380 and 84.52.0531; repealing RCW 28A.505.210 and 28A.505.220; creating new sections; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** (1) Legislation enacted in 2009 (chapter 548, Laws of 2009) and in 2010 (chapter 236, Laws of 2010) revised the definition of the program of basic education, established new methods for distributing state funds to school districts to support this program of basic education, and provided an outline of specific enhancements to the program of basic education that are required to be implemented by 2018. In order to meet the required deadlines to implement full funding of the enhancements, the joint task force in section 2 of this act is created to develop and recommend options for a permanent funding mechanism.

(2) Initiative Measure No. 728 (chapter 3, Laws of 2001) dedicated a portion of state revenues to fund class size reductions and other education improvements. Because class size reductions and similar improvements are incorporated in the reforms that were enacted in chapter 548, Laws of 2009, and chapter 236, Laws of 2010, and that are being incrementally implemented through 2018, Initiative Measure No. 728 is repealed in order to make these dedicated revenues available for implementation of basic education reform and

to facilitate the funding reform recommendations of the joint task force in section 2 of this act.

(3) Nothing in this act alters or amends the elements included in the school district levy base set forth in RCW 84.52.0531.

NEW SECTION. **Sec. 2.** (1) The joint task force on education funding is established. The task force shall make recommendations on how the legislature can meet the requirements outlined in chapter 548, Laws of 2009 and chapter 236, Laws of 2010. In particular, the task force shall develop a proposal for a reliable and dependable funding mechanism to support basic education programs. At a minimum, the proposed funding mechanism must support full implementation of the programmatic enhancements required in chapter 548, Laws of 2009, and chapter 236, Laws of 2010, including full-day kindergarten; reduced K-3 class size; increased allocations for maintenance, supplies, and operating costs; and a new pupil transportation formula. The task force shall also consider the specific recommendations for the transitional bilingual instructional program from the quality education council to the legislature dated January 6, 2012. It shall provide recommendations for: Implementation of a scaled funding formula based on levels of English language proficiency, a supplemental formula based on students exiting the program due to demonstrated English language proficiency, and implementing legislation.

(2)(a) The joint task force on education funding shall consist of the following members:

(i) Eight legislators, with two members from each of the two largest caucuses of the senate appointed by the president of the senate and two members from each of the two largest caucuses of the house of representatives appointed by the speaker of the house of representatives; and

(ii) Three individuals, to be appointed by the governor.

(b) The task force may recommend multiple options, but shall recommend one preferred alternative, including an outline of necessary implementing legislation. Should the task force recommend an option to fully fund the program of basic education with no new revenues, the task force must identify what areas already in the budget would be eliminated or reduced.

(c) The task force shall be staffed by the house of representatives office of program research, senate committee services, and the office of financial management, with assistance from the Washington state institute for public policy and other agencies as necessary.

(3) The task force shall submit a final report to the legislature by December 31, 2012.

Sec. 3. RCW 28A.150.380 and 2009 c 548 s 110 and 2009 c 479 s 16 are each reenacted and amended to read as follows:

(1) The state legislature shall, at each regular session in an odd-numbered year, appropriate for the current use of the common schools such amounts as needed for state support to school districts during the ensuing biennium for the program of basic education under RCW 28A.150.200.

(2) In addition to those state funds provided to school districts for basic education, the legislature may appropriate funds to be distributed to school districts for other factors and for other special programs to enhance or enrich the program of basic education.

(((~~(3) The state legislature shall also, at each regular session in an odd-numbered year, appropriate from the general fund and education construction fund for the purposes of and in accordance with the provisions of the student achievement act during the ensuing biennium.~~)))

Sec. 4. RCW 28A.600.405 and 2007 c 355 s 4 are each amended to read as follows:

(1) For purposes of this section and RCW 28B.50.534, "eligible student" means a student who has completed all state and local high school graduation requirements except the certificate of academic achievement under RCW 28A.655.061 or the certificate of individual achievement under RCW 28A.155.045, who is less than age twenty-one as of September 1st of the academic year the student enrolls at a community and technical college under this section, and who meets the following criteria:

(a) Receives a level 2 (basic) score on the reading and writing content areas of the high school ((~~Washington assessment of student learning~~)) statewide student assessment;

(b) Has not successfully met state standards on a retake of the assessment or an alternative assessment;

(c) Has participated in assessment remediation; and

(d) Receives a recommendation to enroll in courses or a program of study made available under RCW 28B.50.534 from his or her high school principal.

(2) An eligible student may enroll in courses or a program of study made available by a community or technical college participating in the pilot program created under RCW 28B.50.534 for the purpose of obtaining a high school diploma.

(3) For eligible students in courses or programs delivered directly by the community or technical college participating in the pilot program under RCW 28B.50.534 and only for enrollment in courses that lead to a high school diploma, the superintendent of public instruction shall transmit to the colleges participating in the pilot program an amount per each full-time equivalent college student at statewide uniform rates. The amount shall be the sum of (a), (b), and (c)((~~, and (d)~~)) of this subsection, as applicable.

(a) The superintendent shall separately calculate and allocate moneys appropriated for basic education under RCW 28A.150.260 for purposes of making payments under this section. The calculations and allocations shall be based upon the estimated statewide annual average per full-time equivalent high school student allocations under RCW 28A.150.260, excluding small high school enhancements, and applicable rules adopted under chapter 34.05 RCW.

(b) The superintendent shall allocate an amount equal to the per funded student state allocation for the learning assistance program under chapter 28A.165 RCW for each full-time equivalent college student or a pro rata amount for less than full-time enrollment.

(c) ((~~The superintendent shall allocate an amount equal to the per full-time equivalent student allocation for the student achievement program under RCW 28A.505.210 for each full-time equivalent college student or a pro rata amount for less than full-time enrollment.~~

~~(d)~~)) For eligible students who meet eligibility criteria for the state transitional bilingual instruction program under chapter 28A.180 RCW, the superintendent shall allocate an amount equal to the per student state allocation

for the transitional bilingual instruction program or a pro rata amount for less than full-time enrollment.

(4) The superintendent may adopt rules establishing enrollment reporting, recordkeeping, and accounting requirements necessary to ensure accountability for the use of basic education, learning assistance, and transitional bilingual program funds under this section for the pilot program created under RCW 28B.50.534.

(5) All school districts in the geographic area of the two community and technical colleges selected pursuant to section 8, chapter 355, Laws of 2007 to participate in the pilot program shall provide information about the high school completion option under RCW 28B.50.534 to students in grades ten, eleven, and twelve and the parents or guardians of those students.

Sec. 5. RCW 43.135.045 and 2011 1st sp.s. c 50 s 950 are each amended to read as follows:

The education construction fund is hereby created in the state treasury.

(1) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction. During the 2007-2009 fiscal biennium, funds may also be used for higher education facilities preservation and maintenance. During the 2009-2011 and 2011-2013 fiscal biennia, the legislature may transfer from the education construction fund to the state general fund such amounts as reflect the excess fund balance of the fund.

(2) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection shall result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and shall not affect any subsequent fiscal period.

(3) ((~~Funds for the student achievement program in RCW 28A.505.210 and 28A.505.220 shall be appropriated to the superintendent of public instruction strictly for distribution to school districts to meet the provisions set out in the student achievement act. Allocations shall be made on an equal per full-time equivalent student basis to each school district.~~

~~(4)~~)) After July 1, 2010, the state treasurer shall transfer one hundred two million dollars from the general fund to the education construction fund by June 30th of each year.

Sec. 6. RCW 67.70.340 and 2010 1st sp.s. c 27 s 4 are each amended to read as follows:

(1) The legislature recognizes that creating a shared game lottery could result in less revenue being raised by the existing state lottery ticket sales. The legislature further recognizes that the fund most impacted by this potential event is the Washington opportunity pathways account. Therefore, it is the intent of the legislature to use some of the proceeds from the shared game lottery to make up the difference that the potential state lottery revenue loss would have on the Washington opportunity pathways account. The legislature further intends to use some of the proceeds from the shared game lottery to fund programs and services related to problem and pathological gambling.

(2) The Washington opportunity pathways account is expected to receive one hundred two million dollars annually from state lottery games other than the shared game lottery. For fiscal year 2011 and thereafter, if the amount of lottery revenues earmarked for the Washington opportunity pathways account is less than one hundred two million dollars, the commission, after making the transfer required under subsection (3) of this section, must transfer sufficient moneys from revenues derived from the shared game lottery into the Washington opportunity pathways account to bring the total revenue up to one hundred two million dollars.

(3)(a) The commission shall transfer, from revenue derived from the shared game lottery, to the problem gambling account created in RCW 43.20A.892, an amount equal to the percentage specified in (b) of this subsection of net receipts. For purposes of this subsection, "net receipts" means the difference between (i) revenue received from the sale of lottery tickets or shares and revenue received from the sale of shared game lottery tickets or shares; and (ii) the sum of payments made to winners.

(b) In fiscal year 2006, the percentage to be transferred to the problem gambling account is one-tenth of one percent. In fiscal year 2007 and subsequent fiscal years, the percentage to be transferred to the problem gambling account is thirteen one-hundredths of one percent.

(4) The commission shall transfer the remaining net revenues, if any, derived from the shared game lottery "Powerball" authorized in RCW 67.70.044(1) after the transfers pursuant to this section into the state general fund for ((~~the student achievement program under RCW 28A.505.220~~)) support for the program of basic education under RCW 28A.150.200.

(5) The remaining net revenues, if any, in the shared game lottery account after the transfers pursuant to this section shall be deposited into the Washington opportunity pathways account.

Sec. 7. RCW 83.100.230 and 2010 1st sp.s. c 37 s 953 are each amended to read as follows:

The education legacy trust 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 ((~~deposit into the student achievement fund~~)) support of the common schools, and for expanding access to higher education through funding for new enrollments and financial aid, and other educational improvement efforts. ((~~During the 2009-2011 fiscal biennium, moneys in the account may also be transferred into the state general fund.~~))

Sec. 8. RCW 84.52.0531 and 2010 c 237 s 1 and 2010 c 99 s 11 are each reenacted and amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For excess levies for collection in calendar year 1997, the maximum dollar amount shall be calculated pursuant to the laws and rules in effect in November 1996.

(2) For excess levies for collection in calendar year 1998 and thereafter, the maximum dollar amount shall be the sum of (a) plus or minus (b), (c), and (d) of this subsection minus (e) of this subsection:

(a) The district's levy base as defined in subsections (3) and (4) of this section multiplied by the district's maximum levy percentage as defined in subsection (6) of this section;

(b) For districts in a high/nonhigh relationship, the high school district's maximum levy amount shall be reduced and the nonhigh school district's maximum levy amount shall be increased by an amount equal to the estimated amount of the nonhigh payment due to the high school district under RCW 28A.545.030(3) and 28A.545.050 for the school year commencing the year of the levy;

(c) Except for nonhigh districts under (d) of this subsection, for districts in an interdistrict cooperative agreement, the nonresident school district's maximum levy amount shall be reduced and the resident school district's maximum levy amount shall be increased by an amount equal to the per pupil basic education allocation included in the nonresident district's levy base under subsection (3) of this section multiplied by:

(i) The number of full-time equivalent students served from the resident district in the prior school year; multiplied by:

(ii) The serving district's maximum levy percentage determined under subsection (6) of this section; increased by:

(iii) The percent increase per full-time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year divided by fifty-five percent;

(d) The levy bases of nonhigh districts participating in an innovation academy cooperative established under RCW 28A.340.080 shall be adjusted by the office of the superintendent of public instruction to reflect each district's proportional share of student enrollment in the cooperative;

(e) The district's maximum levy amount shall be reduced by the maximum amount of state matching funds for which the district is eligible under RCW 28A.500.010.

(3) For excess levies for collection in calendar year 2005 and thereafter, a district's levy base shall be the sum of allocations in (a) through (c) of this subsection received by the district for the prior school year and the amounts determined under subsection (4) of this section, including allocations for compensation increases, plus the sum of such allocations multiplied by the percent increase per full time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year and divided by fifty-five percent. A district's levy base shall not include local school district property tax levies or other local revenues, or state and federal allocations not identified in (a) through (c) of this subsection.

(a) The district's basic education allocation as determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) Special education;

(iii) Education of highly capable students;

(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;

(v) Food services; and

(vi) Statewide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

(4) For levy collections in calendar years 2005 through 2017, in addition to the allocations included under subsection (3)(a) through (c) of this section, a district's levy base shall also include the following:

(a)(i) For levy collections in calendar year 2010, the difference between the allocation the district would have received in the current school year had RCW 84.52.068 not been amended by chapter 19, Laws of 2003 1st sp. sess. and the allocation the district received in the current school year pursuant to RCW 28A.505.220;

(ii) For levy collections in calendar years 2011 through 2017, ((~~the difference between~~)) the allocation rate the district would have received in the prior school year using the Initiative 728 rate ((~~and the allocation rate the district received in the prior school year pursuant to RCW 28A.505.220~~)) multiplied by the full-time equivalent student enrollment used to calculate the Initiative 728 allocation for the prior school year; and

(b) The difference between the allocations the district would have received the prior school year using the Initiative 732 base and the allocations the district actually received the prior school year pursuant to RCW 28A.400.205.

(5) For levy collections in calendar years 2011 through 2017, in addition to the allocations included under subsections (3)(a) through (c) and (4)(a) and (b) of this section, a district's levy base shall also include the difference between an allocation of fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four enrolled in the prior school year and the allocation of certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four that the district actually received in the prior school year, except that the levy base for a school district whose allocation in the 2009-10 school year was less than fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four shall include the difference between the allocation the district actually received in the 2009-10 school year and the allocation the district actually received in the prior school year.

(6)(a) A district's maximum levy percentage shall be twenty-four percent in 2010 and twenty-eight percent in 2011 through 2017 and twenty-four percent every year thereafter;

(b) For qualifying districts, in addition to the percentage in (a) of this subsection the grandfathered percentage determined as follows:

(i) For 1997, the difference between the district's 1993 maximum levy percentage and twenty percent; and

(ii) For 2011 through 2017, the percentage calculated as follows:

(A) Multiply the grandfathered percentage for the prior year times the district's levy base determined under subsection (3) of this section;

(B) Reduce the result of (b)(ii)(A) of this subsection by any levy reduction funds as defined in subsection (7) of this section that are to be allocated to the district for the current school year;

(C) Divide the result of (b)(ii)(B) of this subsection by the district's levy base; and

(D) Take the greater of zero or the percentage calculated in (b)(ii)(C) of this subsection.

(7) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsections (3) and (4) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

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

(a) "Prior school year" means the most recent school year completed prior to the year in which the levies are to be collected.

(b) "Current school year" means the year immediately following the prior school year.

(c) "Initiative 728 rate" means the allocation rate at which the student achievement program would have been funded under chapter 3, Laws of 2001, if all annual adjustments to the initial 2001 allocation rate had been made in previous years and in each subsequent year as provided for under chapter 3, Laws of 2001.

(d) "Initiative 732 base" means the prior year's state allocation for annual salary cost-of-living increases for district employees in the state-funded salary base as it would have been calculated under chapter 4, Laws of 2001, if each annual cost-of-living increase allocation had been provided in previous years and in each subsequent year.

(9) Funds collected from transportation vehicle fund tax levies shall not be subject to the levy limitations in this section.

(10) The superintendent of public instruction shall develop rules and inform school districts of the pertinent data necessary to carry out the provisions of this section.

(11) For calendar year 2009, the office of the superintendent of public instruction shall recalculate school district levy authority to reflect levy rates certified by school districts for calendar year 2009.

NEW SECTION. **Sec. 9.** The following acts or parts of acts are each repealed:

(1) RCW 28A.505.210 (Student achievement funds—Use and accounting of funds—Public hearing—Report) and 2009 c 479 s 17, 2005 c 497 s 105, & 2001 c 3 s 3; and

(2) RCW 28A.505.220 (Student achievement program—General fund allocation) and 2011 1st sp.s. c 17 s 1.

NEW SECTION. **Sec. 10.** Section 8 of this act expires January 1, 2018.

Passed by the House April 10, 2012.
Passed by the Senate April 10, 2012.
Approved by the Governor May 2, 2012.
Filed in Office of Secretary of State May 2, 2012.

WASHINGTON LAWS

2012 SECOND SPECIAL SESSION

CHAPTER 1

[Engrossed Senate Bill 5127]

STATE GENERAL OBLIGATION BONDS

AN ACT Relating to state general obligation bonds and related accounts; amending 2011 1st sp.s. c 49 ss 1027, 2017, 3082, 5013, 5003, 5012, 5017, 5075, 5062 (uncodified); adding a new chapter to Title 43 RCW; creating new sections; making appropriations; and declaring an emergency.

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

PART I
SHORT TITLE

NEW SECTION. **Sec. 101.** This act shall be known as the 2012 jobs now act.

PART II
BOND AUTHORIZATION

NEW SECTION. **Sec. 201.** For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 2011-2013 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five hundred five million four hundred sixty-six thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. **Sec. 202.** (1) The proceeds from the sale of the bonds authorized in section 201 of this act shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(a) Four hundred eighty million forty-five thousand dollars to remain in the state building construction account created by RCW 43.83.020;

(b) Twenty million four hundred sixteen thousand dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary or advantageous to issue more than the amount specified in this subsection (b) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. If the state finance committee determines that a portion of the amount specified in this subsection (b) as taxable bonds may be issued as nontaxable bonds in compliance with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, then such bond proceeds shall be transferred to the state building construction account in lieu of the transfer to the state taxable building construction account otherwise provided by this

subsection (b). The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary or that a transfer from the state taxable building construction account to the state building construction account may be made. Moneys in the account may be spent only after appropriation.

(2) These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

NEW SECTION. **Sec. 203.** (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 202(1) of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in section 202(1) of this act.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of section 202(1) of this act, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. **Sec. 204.** (1) Bonds issued under sections 201 through 203 of this act shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

NEW SECTION. **Sec. 205.** The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 201 of this act, and sections 202 and 203 of this act shall not be deemed to provide an exclusive method for the payment.

PART III
APPROPRIATIONS—GENERAL GOVERNMENT

NEW SECTION. **Sec. 301. FOR THE DEPARTMENT OF COMMERCE**

Energy Efficiency Grants for Local Governments (91000241)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for grants to local agencies for operational cost savings improvements to local agency facilities and related projects that result in energy and operational cost savings. Related projects are those projects that must be completed in order for the energy

efficiency improvements to be effective. Grants may also be used for loan interest payments over the term of a loan.

(2) The community services and housing division within the department of commerce, in consultation with the department of enterprise services, and the Washington State University energy program shall establish a competitive process to solicit and evaluate applications from local agencies. Final grant awards shall be determined by the department of commerce.

(3) For the purposes of this section:

(a) "Cost-effectiveness" means that the present value to the local agency of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(b) "Energy equipment" means energy management systems and any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including, but not limited to, design, engineering, financing, installation, project management, guarantees, operations, and maintenance. Reduction in energy use or energy cost may also include reductions in the use or cost of water, wastewater, or solid waste.

(c) "Energy cost savings" means savings realized in expenses for energy use and expenses associated with water, wastewater, or solid waste systems.

(d) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a local agency to conduct energy audits and guarantee energy savings from energy efficiency.

(e) "Operational cost savings" means savings realized from parts, service fees, capital renewal costs, and other measurable annual expenses to maintain and repair systems. This definition does not mean labor savings related to existing facility staff.

(f) "Public facilities" means buildings, building components, and major equipment or systems owned by local agencies.

(g) "Local agency" means any city and any town, county, special district, municipal corporation, agency, port district or authority, or political subdivision of any type, or any other entity or authority of local government in corporate form or otherwise.

(4) Grants must be awarded in competitive rounds, based on demand and capacity, with at least ten percent of each competitive grant round awarded to small cities or towns with a population of fewer than five thousand residents.

(5) In order to be eligible for energy efficiency grants under this section, applicants must complete an investment grade audit, or an equivalent, prior to submitting an application for funding.

(6) Within each competitive round, projects must be weighted and prioritized based on the following criteria and in the following order:

(a) Leverage ratio: In each round, the higher the leverage ratio of nonstate funding sources to state grant, the higher the project ranking.

(b) Energy savings: In each round, the higher the energy savings, the higher the project ranking. Applicants must submit documentation that demonstrates

energy and operational cost savings resulting from the installation of the energy equipment and improvements. The energy savings analysis shall be performed by a licensed engineer, and the documentation must include but is not limited to the following:

(i) A description of the energy equipment and improvements; and

(ii) A description of the energy and operational cost savings.

(c) Expediency of expenditure: Project readiness to spend funds must be prioritized so that the legislative intent to expend funds quickly is met.

(7) Projects that do not use energy savings performance contracting must: (a) Verify energy and operational cost savings for ten years or until the energy and operational costs savings pay for the project, whichever is shorter; (b) follow the department of enterprise services energy savings performance contracting project guidelines; and (c) employ a licensed engineer for the energy audit and construction. The department of commerce may require third-party verification of savings if a project is not implemented by an energy savings performance contractor selected by the department of enterprise services through the request of qualifications process. Third-party verification must be conducted either by an energy savings performance contractor selected by the department of enterprise services through a request for qualifications, a licensed engineer that is a certified energy manager, or a project resource conservation manager.

(8) To intensify competition, the department of commerce may only award funds to the top eighty-five percent of projects applying in a round until the department of commerce determines a final round is appropriate. Projects that do not receive a grant award in one round may reapply in subsequent rounds.

(9) Grant amounts awarded to each project must allow for the maximum number of projects funded with the greatest energy and cost benefit.

(10) The department of commerce may charge projects administrative fees and may pay the department of enterprise services, and the Washington State University energy program administration fees in an amount determined through a memorandum of understanding.

(11) The department of commerce and the department of enterprise services must submit a joint report to the appropriate committees of the legislature and the office of financial management on the timing and use of the grant funds, program administrative function, compliance with apprenticeship utilization requirements in RCW 39.04.320, compliance with prevailing wage requirements, and administration fees by the end of each fiscal year, until the funds are fully expended and all savings verification requirements are fulfilled.

Appropriation:

State Building Construction Account—State $18,000,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0

TOTAL $18,000,000

NEW SECTION. **Sec. 302. FOR THE DEPARTMENT OF COMMERCE**

2012 Local and Community Projects (91000417)

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as directed otherwise prior to the effective date of this section, the department shall not expend the appropriations in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations whose sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and shall not be advanced under any circumstances.

(5) Projects funded in this section must be held by the recipient for a minimum of ten years and used for the same purpose or purposes intended by the legislature as required in RCW 43.63A.125(6).

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The appropriation is provided solely for the following list of projects:

Project	**Authorized Amount**
Clark County Family YMCA Building Remodel	$1,500,000
Community Space for Completion of Capitol Hill Housing	$1,500,000
Covington Aquatics Center Roof Replacement and Related Construction	$400,000
Drug Abuse Prevention Center	$61,000
El Centro de la Raza Life Safety Seismic Retrofit	$408,000
Everett Medical Clinic	$250,000
Life Support	$2,000,000
Santos Place	$525,000
Sprague Emergency Response Center	$339,000
Star Center - SERA Campus	$2,640,000
Total	**$9,623,000**

Appropriation:
State Building Construction Account—State $9,623,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $9,623,000

NEW SECTION. **Sec. 303. FOR THE DEPARTMENT OF COMMERCE**

Connell Klindworth Water Line Distribution (91000318)

Appropriation:
State Building Construction Account—State $540,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $540,000

NEW SECTION. **Sec. 304. FOR THE DEPARTMENT OF COMMERCE**

CERB Administered Economic Development, Innovation & Export Grants (92000096)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the following specified economic development projects. The board may allocate up to twenty-five percent of the amounts for specified projects to other specified projects or to additional grants awarded on a competitive basis if, upon further review of the specified projects, the cost of the projects is less than originally assumed or other nonstate funds become available. If specified projects have not met the requirements for executing a contract with the department by April 30, 2013, the board may allocate the amount specified to additional grants awarded on a competitive basis provided that the grant awardee is ready to proceed with the project.

Project	**Authorized Amount**
Chelatchee Prairie RR Project	$500,000
Trans Alta Industrial Park Infrastructure	$998,000
Lakehaven Utility Dist/Federal Way Sewer Project	$1,000,000
Renton Aerospace Center	$2,500,000
NE Redevelopment Area - Storm Water Facilities	$3,500,000
WA Aerospace Training & Research Center Expansion	$1,500,000
Infrastructure for NW Friberg Development in Camas	$3,000,000
Port of Quincy Industrial Park No. 6 Infrastructure	$1,100,000
Federal Way Sewer Line	$1,500,000
Vancouver Waterfront Park Development	$1,000,000
Total	**$16,598,000**

Appropriation:
State Building Construction Account—State $16,598,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $16,598,000

NEW SECTION. **Sec. 305. FOR THE DEPARTMENT OF COMMERCE**

Main Street Improvement Grants (92000098)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the following main street improvement projects administered by the public works board (board). The board may allocate up to twenty-five percent of the amounts for specified projects in this section to other specified projects or to grants awarded on a competitive basis if, upon further review of the specified projects, the cost of the projects is less than originally assumed or other nonstate funds become available. If specified projects have not met the requirements for executing a contract with the department by April 30, 2013, the board may allocate the amount specified to additional grants awarded on a competitive basis provided that the grant awardee is ready to proceed with the project.

Project	**Authorized Amount**
Bay Street Pedestrian Path	$500,000
Downtown Longview Corridor Project	$500,000
Edmonds Main Street Project	$500,000
La Conner Boardwalk	$750,000
Cushman Phase 4	$1,200,000
Kendall Yards Public Infrastructure	$2,000,000
Pacific Ave Streetscape Improvements	$3,000,000
University District Pedestrian/Bike	$3,200,000
Bridge Design & Acquisition Cross Kirkland Corridor	$2,000,000
Everett Parks Roofs	$400,000
Total	**$14,050,000**

Appropriation:
State Building Construction Account—State $14,050,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $14,050,000

NEW SECTION. **Sec. 306. FOR THE DEPARTMENT OF COMMERCE**

Port and Export Related Infrastructure (92000102)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the following list of projects. The department may allocate up to twenty-five percent of the amounts for specified projects to other specified projects or to additional grants awarded on a competitive basis if, upon further review of the specified projects, the cost of the projects is less than originally assumed or other nonstate funds become available. If specified projects have not met the requirements for

executing a contract with the department by April 30, 2013, the department may allocate the amount specified to additional grants awarded on a competitive basis provided that the grant awardee is ready to proceed with the project.

Project	**Authorized Amount**
Benton - Railroad Bridge Replacement	$2,200,000
Camas Washougal - Steigerwald Commerce Center Development	$1,500,000
Columbia - Blue Mountain Station Site	$750,000
Pasco - Heritage Industrial Rail Extension	$1,800,000
Pasco - Rail Hub Development - Phase 5	$1,400,000
Skamania - Access Road	$650,000
Skamania - Water and Wastewater System	$350,000
Tacoma - Puyallup River Bridge Replacement	$7,000,000
Vancouver - Centennial Industrial Park Infrastructure	$5,750,000
Walla Walla - Infrastructure for Warehouse Project	$2,750,000
Tacoma - South Lead Rail	$5,000,000
Speed Improvements for Short Line Rail for Agricultural Exports	$4,000,000
Total	**$33,150,000**

Appropriation:
State Building Construction Account—State $33,150,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $33,150,000

NEW SECTION. **Sec. 307. FOR THE DEPARTMENT OF COMMERCE**

Energy Efficiency Grants For Higher Education (91000242)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for grants to public higher education institutions for operational cost savings improvements to higher education facilities and related projects that result in energy and operational cost savings. Related projects are those projects that must be completed in order for the energy efficiency improvements to be effective. Grants may also be used for loan interest payments over the term of a loan.

(2) The community services and housing division within the department of commerce, in consultation with the department of enterprise services, and the Washington State University energy program shall establish a competitive process to solicit and evaluate applications from public higher education institutions. Final grant awards shall be determined by the department of commerce.

(3) For the purposes of this section:

(a) "Cost-effectiveness" means that the present value to the higher education institution of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(b) "Energy equipment" means energy management systems and any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including, but not limited to, design, engineering, financing, installation, project management, guarantees, operations, and maintenance. Reduction in energy use or energy cost may also include reductions in the use or cost of water, wastewater, or solid waste.

(c) "Energy cost savings" means savings realized in expenses for energy use and expenses associated with water, wastewater, or solid waste systems.

(d) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a public agency to conduct energy audits and guarantee energy savings from energy efficiency.

(e) "Operational cost savings" means savings realized from parts, service fees, capital renewal costs, and other measurable annual expenses to maintain and repair systems. This definition does not mean labor savings related to existing facility staff.

(f) "Public facilities" means buildings, building components, and major equipment or systems owned by public higher education institutions.

(4) Grants must be awarded in competitive rounds, based on demand and capacity.

(5) In order to be eligible for energy efficiency grants under this section, applicants must complete an investment grade audit, or an equivalent, prior to submitting an application for funding.

(6) Within each competitive round, projects must be weighted and prioritized based on the following criteria and in the following order:

(a) Leverage ratio: In each round, the higher the leverage ratio of nonstate funding sources to state grant, the higher the project ranking.

(b) Energy savings: In each round, the higher the energy savings, the higher the project ranking. Applicants must submit documentation that demonstrates energy and operational cost savings resulting from the installation of the energy equipment and improvements. The energy savings analysis shall be performed by a licensed engineer, and the documentation must include, but is not limited to, the following:

(i) A description of the energy equipment and improvements; and

(ii) A description of the energy and operational cost savings.

(c) Expediency of expenditure: Project readiness to spend funds must be prioritized so that the legislative intent to expend funds quickly is met.

(7) Projects that do not use energy savings performance contracting must: (a) Verify energy and operational cost savings for ten years or until the energy and operational costs savings pay for the project, whichever is shorter; (b) follow the department of enterprise services energy savings performance contracting

project guidelines; and (c) employ a licensed engineer for the energy audit and construction. The department of commerce may require third-party verification of savings if a project is not implemented by an energy savings performance contractor selected by the department of enterprise services through the request of qualifications process. Third-party verification must be conducted either by an energy savings performance contractor selected by the department of enterprise services through a request for qualifications, a licensed engineer that is a certified energy manager, or a project resource conservation manager.

(8) To intensify competition, the department of commerce may only award funds to the top eighty-five percent of projects applying in a round until the department of commerce determines a final round is appropriate. Projects that do not receive a grant award in one round may reapply in subsequent rounds.

(9) Grant amounts awarded to each project must allow for the maximum number of projects funded with the greatest energy and cost benefit.

(10) The department of commerce may charge projects administrative fees and may pay the department of enterprise services, and the Washington State University energy program administration fees in an amount determined through a memorandum of understanding.

(11) The department of commerce and the department of enterprise services must submit a joint report to the appropriate committees of the legislature and the office of financial management on the timing and use of the grant funds, program administrative function, compliance with apprenticeship utilization requirements in RCW 39.04.320, compliance with prevailing wage requirements, and administration fees by the end of each fiscal year, until the funds are fully expended and all savings verification requirements are fulfilled.

Appropriation:
State Building Construction Account—State $20,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $20,000,000

Sec. 308. 2011 1st sp.s. c 49 s 1027 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Building Communities Fund Grants (30000102)

The appropriation in this section is subject to the following conditions and limitations:

(1) Except as directed otherwise prior to the effective date of this section, the department shall not expend the appropriation in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the projects or a distinct phase of the project that is useable to the public for this purpose intended by the legislature.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations whose sole

purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and shall not be advanced under any circumstances.

(5) Projects funded in this section must be held by the recipient for a minimum of ten years and used for the same purpose or purposes intended by the legislature as required in RCW 43.63A.125(6).

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The appropriation is provided solely for the following list of projects:

Project	**Authorized Amount**
Serenity House of Clallam County	$52,000
Boys & Girls Clubs of King County	$316,000
YMCA of Pierce and Kitsap Counties	$1,250,000
Jewish Family Service	$2,313,000
Low Income Housing Institute	$313,000
The Salvation Army	$56,000
Share	$581,000
Navos	((~~$2,500,000~~)) $2,350,000
Kitsap Community Resources	$600,000
Transitions	$109,000
Boys & Girls Clubs of the Columbia Basin	$648,000
Village Green Foundation	$1,029,000
Community Action Council of LMT	$95,000
United Way of Kitsap County	$605,000
ARC of Spokane	$862,000
Dynamic Family Services	$575,000
University District Food Bank	$573,000
Kent Youth and Family Services	$298,000
Safe Place	$778,000
Total	((~~$12,327,000~~)) **$13,403,000**

Appropriation:

State Building Construction Account—State . . . . . ((~~$12,327,000~~)) $13,403,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $56,000,000
TOTAL . . . . . ((~~$68,327,000~~))
$69,403,000

NEW SECTION. **Sec. 309. FOR THE DEPARTMENT OF COMMERCE**

Innovation Partnership Zones - Facilities and Infrastructure (92000089)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the following list of projects. The department may allocate up to twenty-five percent of the amounts for specified projects to other specified projects or to additional grants awarded on a competitive basis if, upon further review of the specified projects, the cost of the projects is less than originally assumed or other nonstate funds become available. If specified projects have not met the requirements for executing a contract with the department by April 30, 2013, the department may allocate the amount specified to additional grants awarded on a competitive basis provided that the grant awardee is ready to proceed with the project.

Project	**Authorized Amount**
Tri-Cities Research District - Wine Science Center	$5,000,000
Alternative Energy - Training and Innovation - Walla Walla	$3,670,000
Reuse of Industrial By-Products and Waste - Grays Harbor	$750,000
Biomedical Technology Innovation - Bothell	$500,000
Clean Water Innovations - University of Washington Tacoma & Washington State University - Pierce	$3,600,000
Total	**$13,520,000**

Appropriation:
State Building Construction Account—State $13,520,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $13,520,000

NEW SECTION. **Sec. 310. FOR THE DEPARTMENT OF COMMERCE**

Housing for Families with Children (91000409)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided for the ranked list of projects in the category "Housing for Families with Children" in LEAP capital document No. 2012-7A, developed April 3, 2012. The department shall evaluate projects on the LEAP list and allocate the funding based on the requirements of RCW 43.185.050 and 43.185.070. Upon review of a completed application, if the department determines that a project is not eligible or is not ready to proceed, the department may allocate funding to a project in another category on the

LEAP list, or to any type of alternate project. The department shall, at its discretion, determine the actual amount of funding to be allocated to each project, provided that the total allocation does not exceed the appropriation provided in this section.

Appropriation:
State Taxable Building Construction
Account—State. $8,250,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $8,250,000

NEW SECTION. **Sec. 311. FOR THE DEPARTMENT OF COMMERCE**

Housing for Seniors and People with Physical Disabilities (91000411)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided for the ranked list of projects in the category "Housing for Seniors and People with Physical Disabilities" in LEAP capital document No. 2012-7A, developed April 3, 2012. The department shall evaluate projects on the LEAP list and allocate the funding based on the requirements of RCW 43.185.050 and 43.185.070. Upon review of a completed application, if the department determines that a project is not eligible or is not ready to proceed, the department may allocate funding to a project in another category on the LEAP list, or to any type of alternate project. The department shall, at its discretion, determine the actual amount of funding to be allocated to each project, provided that the total allocation does not exceed the appropriation provided in this section.

Appropriation:
State Taxable Building Construction
Account—State. $9,666,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $9,666,000

NEW SECTION. **Sec. 312. FOR THE DEPARTMENT OF COMMERCE**

Housing for People at Risk of Homelessness (91000415)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided for the ranked list of projects in the category "Housing for People at Risk of Homelessness" in LEAP capital document No. 2012-7A, developed April 3, 2012. The department shall evaluate projects on the LEAP list and allocate the funding based on the requirements of RCW 43.185.050 and 43.185.070. Upon review of a completed application, if the department determines that a project is not eligible or is not ready to proceed, the department may allocate funding to a project in another category on the LEAP list, or to any type of alternate project. The department shall, at its discretion, determine the actual amount of funding to be allocated to

each project, provided that the total allocation does not exceed the appropriation provided in this section.

Appropriation:
State Taxable Building Construction
Account—State. $2,500,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $2,500,000

NEW SECTION. **Sec. 313. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Chehalis River Basin Flood Relief Projects (91000398)

The appropriation in this section is subject to the following conditions and limitations:

(1) Projects funded under this section must be reviewed and approved by both the Chehalis River basin flood authority and the Chehalis tribe prior to the allotment of funds by the office of financial management.

(2) Up to $1,875,000 of the appropriation is for repairing and modifying levees and dikes, including but not limited to, the airport levee, levees protecting the Adna and Bucoda areas.

(3) Up to $2,075,000 of the appropriation is for modification of the Sickman Ford bridge, and floodplain culverts, to open up the channel, increase conveyance, and allow for flood relief.

(4) Up to $50,000 of the appropriation is for installation and calibration of a rain gauge on the Chehalis reservation.

(5) Up to $500,000 of the appropriation is for construction of evacuation routes and pads to avoid future livestock losses.

(6) Up to $500,000 of the appropriation is for improvements to areas affected by the Satsop river.

Appropriation:
State Building Construction Account—State $5,000,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $5,000,000

NEW SECTION. **Sec. 314. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Aerospace and Manufacturing Training Equipment Pool (91000003)

Appropriation:
State Building Construction Account—State $2,265,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $2,265,000

PART IV
APPROPRIATIONS—HUMAN SERVICES

NEW SECTION. **Sec. 401. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Rainier School: Cottages Remodel and Renovation (91000017)

Appropriation:
State Building Construction Account—State $3,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $3,000,000

NEW SECTION. **Sec. 402. FOR THE DEPARTMENT OF HEALTH**

Safe Reliable Drinking Water Grants (92000002)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the following list of projects. The department may allocate up to twenty-five percent of the amounts for specified projects to other specified projects or to additional grants awarded on a competitive basis if, upon further review of the specified projects, the cost of the projects is less than originally assumed or other nonstate funds become available. If specified projects have not met the requirements for executing a contract with the department by April 30, 2013, the department may allocate the amount specified to additional grants awarded on a competitive basis provided that the grant awardee is ready to proceed with the project.

Project	**Authorized Amount**
Cowlitz County Water System - Arsenic Treatment	$200,000
Kapowsin Water District Cryptosporidium Treatment	$50,000
Rhodena Beach Water District Arsenic Treatment	$72,000
Greater Bar Water District Consolidations System	$1,000,000
City of Ilwaco Water Treatment	$940,000
Town of Malden Water Facility Repair	$975,000
City of Colville System Repair/Upgrade	$750,000
Skagit PUD Water System Consolidation	$200,000
Pend Oreille PUD System Repair/Upgrade	$900,000
Gig Harbor - Replace Asbesto Water Mains	$2,000,000
Everett Water System Extension to Tulalip	$1,000,000
Tacoma - Fennel Heights Consolidation	$300,000
Kitsap PUD - Consolidate to Resolve Water Quality Concerns	$2,500,000
Mason County PUD No. 1 Canal Mutual System Upgrade	$650,000

Agency Program Administration $101,000
Total **$11,638,000**

Appropriation:
State Building Construction Account—State $11,638,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $11,638,000

Sec. 403. 2011 1st sp.s. c 49 s 2017 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS
Walla Walla Nursing Facility (20082008)

Appropriation:
State Building Construction Account—State . . . . . ((~~$2,400,000~~))
$16,800,000

Prior Biennia (Expenditures) $125,000
Future Biennia (Projected Costs) . . . . . ((~~$29,141,000~~))
$0
TOTAL . . . . . ((~~$31,666,000~~))
$16,925,000

PART V
APPROPRIATIONS—NATURAL RESOURCES

NEW SECTION. **Sec. 501. FOR THE DEPARTMENT OF ECOLOGY**
Skagit Mitigation (91000181)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the department to develop mitigation options and alternative water sources or tools to make water available for stream flows and for rural domestic permit-exempt uses within the Carpenter-Fisher, East Nookachamps, and Upper Nookachamps Subbasins. Up to $100,000 of the amount specified shall be used to develop a rural domestic demonstration project to determine if on-site best management practices, including, but not limited to, rainwater infiltration, water conservation, and low impact development standards, can meet the mitigation requirements of chapter 173-503 WAC and be reasonably and feasibly integrated into rural domestic developments.

Appropriation:
State Building Construction Account—State $2,225,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $2,225,000

NEW SECTION. **Sec. 502. FOR THE DEPARTMENT OF ECOLOGY**
Columbia River Water Management Projects (91000179)

The appropriation in this section is subject to the following conditions and limitations:

(1) $2,000,000 of the appropriation in this section is provided solely for the Lake Roosevelt Incremental Storage Release - East Low Canal Project.

(2) $2,500,000 of the appropriation in this section is provided solely for the Keechelus to Kachess Pipeline I-90 Crossing Project in Kittitas County.

Appropriation:
Columbia River Basin Water Supply Development
Account—State. $4,500,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $4,500,000

NEW SECTION. **Sec. 503. FOR THE DEPARTMENT OF ECOLOGY**
Flood Levee Improvements (92000057)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the Mt. Vernon flood protection project.

Appropriation:
State Building Construction Account—State $1,500,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $1,500,000

NEW SECTION. **Sec. 504. FOR THE DEPARTMENT OF ECOLOGY**
Ground Water Management Yakima Basin (92000061)

Appropriation:
Columbia River Basin Water Supply Development
Account—State. $450,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $450,000

NEW SECTION. **Sec. 505. FOR THE STATE PARKS AND RECREATION COMMISSION**
Comfort Stations (91000036)

Appropriation:
State Building Construction Account—State $1,754,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $1,754,000

NEW SECTION. **Sec. 506. FOR THE STATE PARKS AND RECREATION COMMISSION**
Rocky Reach Trail (91000035)

Appropriation:
State Building Construction Account—State $400,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $400,000

NEW SECTION. **Sec. 507. FOR THE STATE CONSERVATION COMMISSION**
Farms and Water Quality (91000004)

Appropriation:
State Building Construction Account—State $5,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $5,000,000

NEW SECTION. **Sec. 508. FOR THE STATE CONSERVATION COMMISSION**
Conservation Reserve Enhancement Program (91000007)

Appropriation:
State Building Construction Account—State $1,277,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,277,000

NEW SECTION. **Sec. 509. FOR THE DEPARTMENT OF FISH AND WILDLIFE**
Dry Forest Restoration (91000039)

The appropriation in this section is subject to the following conditions and limitations:

(1) $375,000 of the appropriation is provided solely for the Sherman Creek prescribed burning project.

(2) $421,000 of the appropriation is provided solely for the Sinlahekin dry forest restoration project.

Appropriation:
State Building Construction Account—State $796,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $796,000

NEW SECTION. **Sec. 510. FOR THE DEPARTMENT OF FISH AND WILDLIFE**
Fishway Improvements/Diversions (91000033)

Appropriation:
State Building Construction Account—State $8,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $8,000,000

NEW SECTION. **Sec. 511. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Hatchery Improvements (91000036)

Appropriation:
State Building Construction Account—State $34,775,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $34,775,000

NEW SECTION. **Sec. 512. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Minor Works - Dam and Dike (91000042)

Appropriation:
State Building Construction Account—State $200,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $200,000

NEW SECTION. **Sec. 513. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Minor Works - Access Sites (91000044)

Appropriation:
State Building Construction Account—State $7,406,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $7,406,000

NEW SECTION. **Sec. 514. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Minor Works - Fish Passage Barriers (Culverts) (91000045)

Appropriation:
State Building Construction Account—State $1,495,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,495,000

NEW SECTION. **Sec. 515. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Minor Works - Road Maintenance and Abandonment Plan (91000046)

Appropriation:
State Building Construction Account—State $516,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $516,000

NEW SECTION. **Sec. 516. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Wildlife Area Improvements (91000047)

Appropriation:
State Building Construction Account—State $60,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $60,000

NEW SECTION. **Sec. 517. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Acquire Dryden Gravel Pit from Washington Department of Transportation (92000028)

Appropriation:
State Building Construction Account—State $251,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $251,000

Sec. 518. 2011 1st sp.s. c 49 s 3082 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Voights Creek Hatchery (20081003)

((~~The appropriation in this section is subject to the following conditions and limitations: The appropriations in this section are provided solely for property acquisition, design, and permitting. If the department does not acquire property, the amounts provided in this section shall lapse.~~))

Reappropriation:
State Building Construction Account—State $115,000
Appropriation:
State Building Construction Account—State . . . . . ((~~$1,000,000~~)) $14,000,000

Prior Biennia (Expenditures) $1,182,000
Future Biennia (Projected Costs) . . . . . ((~~$13,000,000~~)) $0
TOTAL $15,297,000

NEW SECTION. **Sec. 519. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Road Maintenance and Abandonment Plan (91000040)

The appropriation is subject to the following conditions and limitations:

(l) $1,084,000 of the appropriation in this section is provided solely to replace fish passage barriers and bring roads up to salmon recovery and clean

water standards within natural area preserves and natural resource conservation areas.

(2) $5,750,000 of the appropriation in this section is provided solely to replace fish passage barriers and bring roads up to salmon recovery and clean water standards on state grant lands and state forest lands.

Appropriation:
State Building Construction Account—State $6,834,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $6,834,000

NEW SECTION. **Sec. 520. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Restoration Projects to Improve Natural Resources (91000054)

The appropriation in this section is subject to the following conditions and limitations:

(1) $435,000 of the appropriation is provided solely for a grant to a nonprofit organization for road repairs and restoration of forestlands along the Clearwater River.

(2) $1,020,000 of the appropriation is provided solely for a grant for road repairs and forest treatments in the Ellsworth Creek watershed.

(3) $1,030,000 of the appropriation is provided solely for a grant for dike removal and construction of a setback dike and flood attenuation structure at Port Susan Bay.

(4) $75,000 of the appropriation is provided solely to the department of fish and wildlife for forest restoration treatments in the Oak Creek - Tieton landscape.

Appropriation:
State Building Construction Account—State $2,560,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $2,560,000

NEW SECTION. **Sec. 521. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Forest Hazard Reduction and Safety (91000066)

The appropriation in this section is subject to the following conditions and limitations:

(1) Up to $4,320,000 of the appropriation in this section is for forest treatments that benefit state trust lands in eastern Washington by reducing insect, disease and wildfire hazards, of which not more than $500,000 may be used for implementing treatments on federal lands solely within areas identified by a forest health technical advisory committee to warrant a forest health hazard warning or order authorized under RCW 76.06.180;

(2) Up to $4,150,000 of the appropriation in this section is for noxious weed abatement and precommercial thinning on state trust lands; and

(3) Forest treatments to reduce insect, disease and wildfire hazards on private or federal lands shall require a contract with the department of natural resources to provide at least a one-to-one nonstate or in-kind fund match, and to provide a ten-year landowner maintenance agreement.

Appropriation:
State Building Construction Account—State $8,470,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $8,470,000

NEW SECTION. **Sec. 522. FOR THE DEPARTMENT OF NATURAL RESOURCES**
Puget SoundCorps (91000046)

The appropriation is subject to the following conditions and limitations: The appropriation in this section is provided solely for water quality and habitat protection and restoration projects that benefit Puget Sound recovery and that are primarily on public lands. The department of natural resources must contract with the department of ecology for Puget SoundCorps crews of youth and military veterans to implement these projects pursuant to chapter 20, Laws of 2011.

Appropriation:
State Building Construction Account—State $10,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $10,000,000

NEW SECTION. **Sec. 523. FOR THE DEPARTMENT OF NATURAL RESOURCES**
Creosote Piling Removal (92000014)

The appropriation is subject to the following conditions and limitations: The appropriation in this section is provided solely to remove creosote pilings from Puget Sound.

Appropriation:
State Building Construction Account—State $1,650,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,650,000

NEW SECTION. **Sec. 524. FOR THE DEPARTMENT OF NATURAL RESOURCES**
Derelict Vessel Removal and Disposal (91000049)

Appropriation:
State Building Construction Account—State $3,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $3,000,000

NEW SECTION. **Sec. 525. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Shoreline Restoration (92000011)

The appropriation is subject to the following conditions and limitations: The appropriation in this section is provided solely to fund aquatic restoration projects in Puget Sound through partnerships with other agencies and organizations. Within the amount provided, $1,966,000 is provided solely for the Admiralty Inlet feeder bank preservation project.

Appropriation:
State Building Construction Account—State $3,966,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $3,966,000

NEW SECTION. **Sec. 526. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Urban Forest Restoration (Puget Sound Basin)(91000051)

The appropriation is subject to the following conditions and limitations: The appropriation in this section is provided solely to assist municipalities and jurisdictions across the state to better manage existing urban forests and plan for improvements to the urban forest infrastructure.

Appropriation:
State Building Construction Account—State $400,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $400,000

NEW SECTION. **Sec. 527. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Large Debris Removal (91000052)

The appropriation is subject to the following conditions and limitations: The appropriation in this section is provided solely to assist public and private shoreline property owners with the removal of large, artificial marine debris from Puget Sound shorelines.

Appropriation:
State Building Construction Account—State $200,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $200,000

NEW SECTION. **Sec. 528. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Secret Harbor Estuary Restoration - Cypress Island (91000053)

The appropriation is subject to the following conditions and limitations: The appropriation in this section is provided solely to restore the Secret Harbor estuary, enhance public access, and expand the capacity of the Cypress Island natural resources conservation area for tourism and low-impact public use.

Appropriation:
State Building Construction Account—State $535,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $535,000

PART VI
APPROPRIATIONS—EDUCATION

NEW SECTION. **Sec. 601. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

Energy Efficiency Grants for K-12 Schools (91000017)

The appropriation is subject to the following conditions and limitations: The superintendent of public instruction may charge program administrative fees.

Appropriation:
State Building Construction Account—State $40,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $40,000,000

NEW SECTION. **Sec. 602. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

Distressed Schools (92000009)

The appropriation in this section is subject to the following conditions and limitations:

(1) $9,400,000 of the appropriation in this section is provided solely for updating existing classrooms at John Marshall, Boren, and Van Asselt schools in the Seattle school district.

(2) $1,000,000 of the appropriation in this section is provided solely for emergency repairs at Orcas Island schools.

(3) $17,000,000 is provided solely for additional state funding for the Grand Coulee Dam school project.

Appropriation:
State Building Construction Account—State $27,400,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $27,400,000

NEW SECTION. **Sec. 603. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

Grant County Branch Campus of Wenatchee Valley Skills Center (30000091)

Appropriation:
State Building Construction Account—State $19,408,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $9,488,000
TOTAL $28,896,000

Sec. 604. 2011 1st sp.s. c 49 s 5013 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

SEA-Tech Branch Campus of Tri-Tech Skills Center (30000078)

Appropriation:
State Building Construction Account—State . . . . . ((~~$1,169,000~~)) $11,519,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$11,739,000~~)) $0
TOTAL . . . . . ((~~$12,908,000~~)) $11,519,000

Sec. 605. 2011 1st sp.s. c 49 s 5003 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Pierce County Skills Center (20084856)

Reappropriation:
School Construction and Skill Centers Building Account—State $2,087,000
Appropriation:
State Building Construction Account—State . . . . . ((~~$7,100,000~~)) $11,900,000

Prior Biennia (Expenditures) $9,949,000
Future Biennia (Projected Costs) . . . . . ((~~$10,772,000~~)) $11,427,000
TOTAL . . . . . ((~~$29,908,000~~)) $35,363,000

Sec. 606. 2011 1st sp.s. c 49 s 5012 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Clark County Skills Center (30000093)

Appropriation:
State Building Construction Account—State . . . . . ((~~$100,000~~)) $1,550,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$14,750,000~~)) $12,300,000
TOTAL . . . . . ((~~$14,850,000~~)) $13,850,000

NEW SECTION. **Sec. 607. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**
Wenatchee Valley Skills Center (92000004)

Appropriation:
State Building Construction Account—State $9,500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $9,500,000

NEW SECTION. **Sec. 608. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**
Spokane Area Professional-Technical Skills Center (92000005)

Appropriation:
State Building Construction Account—State $1,800,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,800,000

NEW SECTION. **Sec. 609. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**
WA-NIC Skills Center - Snoqualmie Valley School District/Bellevue Community College (92000006)

Appropriation:
State Building Construction Account—State $1,715,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,715,000

NEW SECTION. **Sec. 610. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**
Puget Sound Skills Center (92000007)

Appropriation:
State Building Construction Account—State $1,500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $21,400,000
TOTAL $22,900,000

NEW SECTION. **Sec. 611. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**
Yakima Valley Technical Skills Center Sunnyside Satellite (92000013)

Appropriation:
State Building Construction Account—State $6,225,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $6,225,000

NEW SECTION. **Sec. 612. FOR THE STATE SCHOOL FOR THE BLIND**
General Campus Preservation (30000018)

Appropriation:
State Building Construction Account—State $550,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $2,557,000
TOTAL $3,107,000

NEW SECTION. **Sec. 613. FOR THE WASHINGTON STATE CENTER FOR THE CHILDHOOD DEAFNESS AND HEARING LOSS**
Minor Public Works (30000013)

Appropriation:
State Building Construction Account—State $536,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $3,811,000
TOTAL $4,347,000

NEW SECTION. **Sec. 614. FOR THE UNIVERSITY OF WASHINGTON**
Burke Museum Renovation (20082850)

Appropriation:
State Building Construction Account—State $3,500,000

Prior Biennia (Expenditures) $300,000
Future Biennia (Projected Costs) $14,000,000
TOTAL $17,800,000

NEW SECTION. **Sec. 615. FOR THE UNIVERSITY OF WASHINGTON**
University of Washington Tacoma Campus Development and Soil Remediation (92000002)

Appropriation:
State Building Construction Account—State $4,300,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $4,300,000

Sec. 616. 2011 1st sp.s. c 49 s 5017 (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON
University of Washington Bothell (20082006)

Reappropriation:
State Building Construction Account—State $2,934,000
Appropriation:
State Building Construction Account—State $19,887,000

Prior Biennia (Expenditures) $2,216,000
Future Biennia (Projected Costs) . . . . . ((~~$77,435,000~~))
$0
TOTAL . . . . . ((~~$82,585,000~~))
$25,037,000

NEW SECTION. **Sec. 617. FOR THE WASHINGTON STATE UNIVERSITY**

Washington State University Spokane - Riverpoint Biomedical and Health Sciences (20162953)

Appropriation:
State Building Construction Account—State $6,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $6,000,000

NEW SECTION. **Sec. 618. FOR THE WASHINGTON STATE UNIVERSITY**

High-Technology Education Equipment (92000007)

Appropriation:
State Building Construction Account—State $1,821,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,821,000

NEW SECTION. **Sec. 619. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Equipment Pool (92000011)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is for major equipment in high demand fields from among the list as specified in LEAP capital document No. 2012-34, developed March 7, 2012. The state board for community and technical colleges may allocate amounts among the equipment items specified to cover differences in actual bid prices, but may not allocate amounts to equipment items not on the list.

Appropriation:
State Building Construction Account—State $12,300,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $12,300,000

NEW SECTION. **Sec. 620. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Olympic College: College Instruction Center (30000122)

Appropriation:
State Building Construction Account—State $3,624,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $51,079,000
TOTAL $54,703,000

Sec. 621. 2011 1st sp.s. c 49 s 5075 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

North Seattle Community College: Technology Building Renewal (30000129)

Reappropriation:
State Building Construction Account—State $1,478,000
Appropriation:
State Building Construction Account—State $23,335,000

Prior Biennia (Expenditures) $606,000
Future Biennia (Projected Costs) . . . . . ((~~$20,950,000~~)) $0
TOTAL . . . . . ((~~$23,034,000~~)) $25,419,000

Sec. 622. 2011 1st sp.s. c 49 s 5062 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Washington Heritage Grants (30000117)

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:

Project	Authorized Amount
Schooner Martha Foundation	$118,000
Cascade Land Conservancy	$155,000
Port of Chinook	$45,000
City of Bellingham	$100,000
La Conner Quilt and Textile Museum	$25,000
City of Vancouver	$610,000
Blue Mountain Heritage Society	$30,000
Metro Parks Tacoma	$60,000
Si View Metro Park District	$25,000
City of Port Townsend	$375,000

San Juan County Parks Department	$18,000
Seattle Theatre Group	$531,000
Jefferson County	$300,000
Sound Experience	$288,000
Museum of History and Industry	$1,000,000
Seattle Department of Transportation	$700,000
Historic Seattle Preservation and Development Authority	$470,000
Town of Wilkeson	$75,000
Maryhill Museum of Fine Art	$57,000
Clymer Museum of Art	$9,000
Phinney Neighborhood Association	$995,000
Foss Waterway Seaport	$750,000
Polson Museum	$143,000
Broadway Center for the Performing Arts	$203,000
Total	((~~$1,168,000~~)) $7,082,000

Appropriation:
State Building Construction Account—State . . . . . ((~~$1,168,000~~)) $7,082,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$1,168,000~~)) $7,082,000

PART VII
MISCELLANEOUS

NEW SECTION. **Sec. 701.** (1) Allotments for appropriations in this act shall be provided in accordance with expedited capital project review requirements adopted by the office of financial management.

(2) Each project is defined as proposed in the legislative budget notes or in the governor's budget document.

NEW SECTION. **Sec. 702.** (1) To ensure 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, 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 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 lists before funds may be expended on the revisions.

(2)(a) Minor works projects are single line appropriations that include multiple projects of a similar nature and that are valued between $25,000 and $1,000,000 each, with the exceptions of: (i) Higher education minor works projects that may be valued up to $2,000,000; and (ii) department of fish and wildlife minor works projects funded in this act that may be valued up to $3,200,000. These projects can generally be completed within two years of the appropriation with the funding provided. Except for department of fish and wildlife minor works projects funded in this act, agencies are prohibited from including projects on their minor works lists that are a phase of a larger project, and that if combined over a continuous period of time, would exceed $1,000,000, or $2,000,000 for higher education minor works projects. 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.

(c) Minor works preservation projects may include program improvements of no more than twenty-five percent of the individual minor works preservation project cost.

(3) It is generally not the intent of the legislature 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. 703.** (1) The office of financial management may authorize a transfer of appropriation authority provided for a capital project that is in excess of the amount required for the completion of such project to another capital project for which the appropriation is insufficient. No such transfer may be used to expand the capacity of any facility beyond that intended in making the appropriation. Such transfers may be effected only between capital appropriations to a specific department, commission, agency, or institution of higher education and only between capital projects that are funded from the same fund or account. No transfers may occur between projects to local government agencies except where the grants are provided within a single omnibus appropriation and where such transfers are specifically authorized by the implementing statutes that govern the grants.

(2) The office of financial management may find that an amount is in excess of the amount required for the completion of a project only if: (a) The project as defined in the notes to the budget document is substantially complete and there

are funds remaining; or (b) bids have been let on a project and it appears to a substantial certainty that the project as defined in the notes to the budget document can be completed within the biennium for less than the amount appropriated in this act.

(3) For the purposes of this section, the intent is that each project be defined as proposed to the legislature in the governor's budget document, unless it clearly appears from the legislative history that the legislature intended to define the scope of a project in a different way.

(4) The office of financial management shall report any transfer effected under this section to the house of representatives capital budget committee, the senate ways and means committee, and the legislative evaluation and accountability program committee, at least thirty days before the date the transfer is effected. The office of financial management shall report all emergency or smaller transfers within thirty days from the date of transfer. The governor's capital budget request following any transfer shall reflect that transfer in the affected agency.

NEW SECTION. **Sec. 704.** (1) It is expected that projects be ready to proceed in a timely manner depending on the type or phase of the project or program that is the subject of the appropriation in this act. Except for major projects that customarily may take more than two biennia to complete from predesign to the end of construction, or large infrastructure grant or loan programs supporting projects that often take more than two biennia to complete, the legislature generally does not intend to reappropriate funds more than once, particularly for smaller grant programs, local/community projects, and minor works.

(2) Agencies shall expedite the expenditure of reappropriations and appropriations in this act in order to: (a) Rehabilitate infrastructure resources; (b) accelerate environmental rehabilitation and restoration projects for the improvement of the state's natural environment; (c) reduce additional costs associated with acquisition and construction inflationary pressures; and (d) provide additional employment opportunities associated with capital expenditures.

(3) To the extent feasible, agencies are directed to accelerate expenditure rates at their current level of permanent employees and shall use contracted design and construction services wherever necessary to meet the goals of this section.

NEW SECTION. **Sec.705. FOR THE ARTS COMMISSION—ART WORK ALLOWANCE POOLING**

(1) One-half of one percent of moneys appropriated in this act for original construction of school plant facilities may be expended for the purposes of RCW 28A.335.210. The Washington state arts commission may combine the proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the superintendent of public instruction and representatives of school district boards.

(2) One-half of one percent of moneys appropriated in this act for original construction or any major renovation or remodel work exceeding two hundred thousand dollars by colleges or universities may be expended for the purposes of RCW 28B.10.027. The Washington state arts commission may combine the

proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the board of regents or trustees.

(3) At least eighty-five percent of the moneys spent by the Washington state arts commission during the 2011-2013 biennium for the purposes of RCW 28A.335.210, 28B.10.027, and 43.17.200 must be expended solely for direct acquisition of works of art. The commission may use up to $100,000 of this amount to conserve or maintain existing pieces in the state art collection pursuant to chapter 36, Laws of 2005.

NEW SECTION. **Sec. 706.** CODIFICATION. Sections 201 through 205 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 707.** SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 708.** EFFECTIVE DATE. 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 April 11, 2012.
Passed by the House April 11, 2012.
Approved by the Governor April 23, 2012.
Filed in Office of Secretary of State April 24, 2012.

CHAPTER 2

[Engrossed Senate Bill 6074]

SUPPLEMENTAL CAPITAL BUDGET

AN ACT Relating to funding capital projects; amending RCW 43.155.050, 79.17.010, 79.17.020, and 79.105.150; amending 2011 1st sp.s. c 49 ss 1011, 1028, 1024, 1017, 1036, 1046, 1047, 1054, 2027, 2034, 3027, 3008, 3028, 3070, 3108, 5002, 5008, 5009, 5004, 5006, 5022, 5030, 5070, 5082, and 5088 (uncodified); amending 2011 1st sp.s. c 48 ss 1018, 2005, 2006, 3024, 3025, 3036, 3083, 5003, 5007, 5006, 5014, 5027, 5022, 5040, and 7011 (uncodified); reenacting and amending RCW 70.105D.070; adding new sections to 2011 1st sp.s. c 49 (uncodified); adding new sections to 2011 1st sp.s. c 48 (uncodified); creating new sections; making appropriations; 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, 2013, out of the several funds specified in this act.

PART 1
GENERAL GOVERNMENT

Sec. 1001. 2011 1st sp.s. c 49 s 1011 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Local and Community Projects (20084001)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The projects must comply with RCW 43.63A.125 and other requirements for community projects administered by the department.

(2) The reappropriation is subject to the provisions of section 1008, chapter 328, Laws of 2008 and section 1003, chapter 36, Laws of 2010 1st sp. sess.

Reappropriation:

State Building Construction Account—State . . . . . ((~~$18,387,000~~)) $18,477,000

Prior Biennia (Expenditures) . . . . . ((~~$106,757,000~~)) $106,667,000

Future Biennia (Projected Costs) $0

TOTAL $125,144,000

Sec. 1002. 2011 1st sp.s. c 49 s 1028 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Local and Community Projects (30000166)

The appropriation in this section is subject to the following conditions and limitations:

(1) Except as directed otherwise prior to the effective date of this section, the department shall not expend the appropriations in this section unless and

until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations whose sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and shall not be advanced under any circumstances.

(5) Projects funded in this section must be held by the recipient for a minimum of ten years and used for the same purpose or purposes intended by the legislature as required in RCW 43.63A.125(6).

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The appropriation in this section for the Roslyn Renaissance project is subject to the following conditions and limitations: It is the intent of this appropriation to undertake a feasibility study of structural and program integrity of historic buildings including (a) the northwest improvement company store, (b) the Sylvia's house, and (c) vacant commercial lots within the city of Roslyn. The study will analyze the adaptability of relocating the city offices to the renovated city hall building. The Roslyn downtown association shall submit the completed study to the department by July 1, 2012, including a detailed cost estimate for the property acquisition and redevelopment, and a capital fundraising plan to support the acquisitions through multiple funding sources.

(8) The appropriation is provided solely for the following list of projects:

Project	**Authorized Amount**
Adna Athletic and Fitness Facility	$80,000
American Lake Veterans' Golf Course	$250,000
Anacortes Depot	$380,000
Bothell North Creek Forest Land Acquisition	$200,000
Boys and Girls Federal Way	$50,000
Bucoda Odd Fellows Community Center	$150,000
Central WA State Fair Association	$35,000
City of Kirkland Athletic Fields	$150,000
Colville Tribal Museum	$250,000
Daybreak Youth Services Pre-Construction Activities	$100,000
Dekalb Pier Project	$700,000

Gig Harbor Maritime Pier	$390,000
Grays Harbor Historical Seaport Lady Washington Rehabilitation	$169,000
Legion Park Visitors Center and Trailhead Project	$110,000
Match FEMA funds for Sprague Response Center	$300,000
North Mason Senior Center	$1,360,000
Port of Bremerton	$1,100,000
Puyallup Transit Oriented Development	$1,500,000
Redmond Central Connector	$850,000
Roslyn Renaissance	$300,000
Seattle Children's Hospital Emergency Department	$1,000,000
Skagit Valley Hospital	$750,000
South Tacoma Community Center Playground	$380,000
Spokane Food Bank Distribution Center Capacity and Renovation	$1,250,000
Spokane Valley Partners Boiler Replacement	$100,000
Sultan Boys and Girls Club	$500,000
Tacoma Hilltop Health Center	$1,500,000
The Arc of Tri-Cities Facility	$350,000
Traumatic Brain Injury Center	$900,000
Vancouver Waterfront Park Pre-Construction Activities	$500,000
Veteran's Memorial	$210,000
West Hill Skyway Redevelopment	$750,000
YWCA Yakima	$203,000
Total	**$16,817,000**

(9) Up to $80,000 of the Roslyn Renaissance project authorized amount may be used to acquire Sylvia House.

Appropriation:

State Building Construction Account—State $16,817,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0

TOTAL $16,817,000

NEW SECTION. **Sec. 1003.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Local and Community Projects 2012 (91000437)

The appropriation in this section is subject to the following conditions and limitations:

(1) Except as directed otherwise prior to the effective date of this section, the department shall not expend the appropriations in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations whose sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and shall not be advanced under any circumstances.

(5) Projects funded in this section must be held by the recipient for a minimum of ten years and used for the same purpose or purposes intended by the legislature as required in RCW 43.63A.125(6).

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The appropriation is provided solely for the following list of projects:

Project	**Authorized Amount**
Low Income Housing Institute -Housing for Homeless Young Adults	$1,800,000
Roslyn Northwest Improvement Building	$1,035,000
Total	**$2,835,000**

Appropriation:

State Taxable Building Construction Account—State. $1,800,000
State Building Construction Account—State $1,035,000
Subtotal Appropriation $2,835,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs). $0
TOTAL $2,835,000

Sec. 1004. 2011 1st sp.s. c 49 s 1024 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Temporary Public Works Grant Program (92000021)

The reappropriation in this section is subject to the provisions of section 1050, chapter 497, Laws of 2009.

Reappropriation:
State Building Construction Account—State $17,106,000
State Taxable Building Construction Account—
State . . . . . ((~~$1,298,000~~))
$328,000
Subtotal Reappropriation . . . . . ((~~$18,404,000~~))
$17,434,000

Prior Biennia (Expenditures) $23,936,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$42,340,000~~))
$41,370,000

NEW SECTION. **Sec. 1005.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE

CERB Administered Economic Development, Innovation & Export Grants (92000096)

The appropriations in this section are subject to the following conditions and limitations: The appropriation is provided solely for a competitive economic development and community revitalization grant program administered by the community economic revitalization board (board) in consultation with the public works board and for the economic development projects specified in subsection (2) of this section.

(1) The intent of the competitive program is to provide grants to local governments, including ports, and innovation partnership zones for public infrastructure, facilities, and related improvements that enable and encourage private sector business creation or expansion, the redevelopment of brownfields, and to enhance the vitality and livability of the community. The board shall establish all grant application requirements. The board may choose to establish two separate grant competitions for the economic development projects and the community revitalization projects.

(2) The boards shall prioritize economic development grants by considering at a minimum the following criteria:

(a) The number of jobs created by the expected business creation or expansion and the average wage of those expected jobs. In evaluating proposals for their job creation potential, the board may adjust the job estimates in applications based on the board's judgment of the credibility of the job estimates;

(b) The board shall also consider the need for job creation based on the unemployment rate of the county or counties in which the project is located. In evaluating the average wages of the jobs created, the board shall compare those wages to median wages of private sector jobs in the county or counties surrounding the project location;

(c) When evaluating the jobs created by the project, the board may consider the area labor supply and readily available skill sets of the labor pool in the county or counties surrounding the project location;

(d) How the expected business creation or expansion fits within the region's preferred economic growth strategy as indicated by the efforts of nearby innovation partnership zones, industry clusters as defined by the Washington

Economic Development Commission, future export prospects, or local government equivalent if available;

(e) The speed with which the project can begin construction;

(f) The extent that the final list of grant awards provides broad geographic distribution, leverages nonstate funds, and achieves overall the greatest benefit in job creation at good wages for the amount of money provided;

(g) In no event shall the board award a grant that supplants previously committed project resources.

(3) The board shall prioritize community revitalization grants by considering at a minimum the following criteria:

(a) The value of the project to the community. In evaluating the value of the project, the board shall, at a minimum, consider the difficulty the applicant has in financing main street improvement projects with their own local resources and the extent the project will increase economic activity for existing businesses, improve safety and enjoyment of pedestrians and bicyclists, enhance in-city recreational opportunities, and revitalize downtown business districts.

(b) The extent to which businesses and local governments in the affected area support the project;

(c) Whether or not the project is in the local government's adopted capital facility plan, comprehensive plan, or equivalent. Additional consideration is given to projects located within one of the aforementioned plans;

(d) The extent to which the project promotes infill and redevelopment of the downtown area;

(e) The speed with which the project can begin construction;

(f) The extent that the final list of grant awards provides broad geographic distribution, leverages nonstate funds, and achieves overall the greatest benefit for the amount of money provided;

(g) The extent to which the applicant demonstrates the ability to maintain the project funded through the grant program;

(h) In no event shall the board award a grant that supplants previously committed project resources.

(4) $4,000,000 of the appropriation is provided solely for the Satsop wastewater improvement project.

Appropriation:

Public Works Assistance Account—State $16,000,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0

TOTAL $16,000,000

NEW SECTION. **Sec. 1006.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Brownfield Redevelopment Grants (92000100)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for redevelopment of the Bellingham waterfront.

Appropriation:
Local Toxics Control Account—State $1,500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,500,000

NEW SECTION. **Sec. 1007.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Main Street Improvement Grants (92000098)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the Scriber Creek pedestrian bridge project.

Appropriation:
Public Works Assistance Account—State $800,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $800,000

Sec. 1008. 2011 1st sp.s. c 48 s 1018 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Drinking Water State Revolving Fund Loan Program (30000095)

The appropriations in this section are subject to the following conditions and limitations: For projects involving repair, replacement, or improvement of a clean water infrastructure facility or other public works facility for which an investment grade audit is obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade audit. The project sponsor may finance the costs of the audit as part of its drinking water state revolving fund program loan.

Appropriation:
Drinking Water Assistance Account—State $16,000,000
Drinking Water Assistance Repayment Account—
State . . . . . ((~~$32,000,000~~)) $92,000,000
Subtotal Appropriation . . . . . ((~~$48,000,000~~)) $108,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $192,000,000
TOTAL . . . . . ((~~$240,000,000~~)) $300,000,000

NEW SECTION. **Sec. 1009.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Housing for People with Developmental Disabilities (91000410)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided for the ranked list of projects in the category "Housing for People with Developmental Disabilities" in LEAP capital document No. 2012-7A, developed April 3, 2012. The department shall evaluate projects on the LEAP list and allocate the funding based on the requirements of RCW 43.185.050 and 43.185.070. Upon review of a completed application, if the department determines that a project is not eligible or is not ready to proceed, the department may allocate funding to a project in another category on the LEAP list, or to any type of alternate project. The department shall, at its discretion, determine the actual amount of funding to be allocated to each project, provided that the total allocation does not exceed the appropriation provided in this section.

Appropriation:
State Taxable Building Construction
Account—State. $2,900,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $2,900,000

NEW SECTION. **Sec. 1010.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Housing for People with Chronic Mental Illness (91000412)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided for the ranked list of projects in the category "Housing for People with Chronic Mental Illness" in LEAP capital document No. 2012-7A, developed April 3, 2012. The department shall evaluate projects on the LEAP list and allocate the funding based on the requirements of RCW 43.185.050 and 43.185.070. Upon review of a completed application, if the department determines that a project is not eligible or is not ready to proceed, the department may allocate funding to a project in another category on the LEAP list, or to any type of alternate project. The department shall, at its discretion, determine the actual amount of funding to be allocated to each project, provided that the total allocation does not exceed the appropriation provided in this section.

Appropriation:
State Taxable Building Construction
Account—State. $1,125,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $1,125,000

NEW SECTION. **Sec. 1011.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Housing for the Homeless (91000413)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided for the ranked list of projects in the category "Housing for the Homeless" in LEAP capital document No. 2012-7A, developed April 3, 2012. The department shall evaluate projects on the LEAP list and allocate the funding based on the requirements of RCW 43.185.050 and 43.185.070. Upon review of a completed application, if the department determines that a project is not eligible or is not ready to proceed, the department may allocate funding to a project in another category on the LEAP list, or to any type of alternate project. The department shall, at its discretion, determine the actual amount of funding to be allocated to each project, provided that the total allocation does not exceed the appropriation provided in this section.

Appropriation:
State Taxable Building Construction
Account—State. $28,944,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $28,944,000

NEW SECTION. **Sec. 1012.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Housing for Farmworkers (91000414)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided for the ranked list of projects in the category "Housing for Farmworkers" in LEAP capital document No. 2012-7A, developed April 3, 2012. The department shall evaluate projects on the LEAP list and allocate the funding based on the requirements of RCW 43.185.050 and 43.185.070. Upon review of a completed application, if the department determines that a project is not eligible or is not ready to proceed, the department may allocate funding to a project in another category on the LEAP list, or to any type of alternate project. The department shall, at its discretion, determine the actual amount of funding to be allocated to each project, provided that the total allocation does not exceed the appropriation provided in this section.

Appropriation:
State Taxable Building Construction
Account—State. $6,215,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $6,215,000

NEW SECTION. **Sec. 1013.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Housing for Low-Income Households (91000416)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided for the ranked list of projects in the category "Housing for Low Income Households" in LEAP capital document No. 2012-7A, developed April 3, 2012. The department shall evaluate projects on the LEAP list and allocate the funding based on the requirements of RCW 43.185.050 and 43.185.070. Upon review of a completed application, if the department determines that a project is not eligible or is not ready to proceed, the department may allocate funding to a project in another category on the LEAP list, or to any type of alternate project. The department shall, at its discretion, determine the actual amount of funding to be allocated to each project, provided that the total allocation does not exceed the appropriation provided in this section.

Appropriation:
State Taxable Building Construction Account—State. $2,982,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $2,982,000

NEW SECTION. **Sec. 1014.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Housing Competitive Pool (91000432)

The appropriation in this section is subject to the following conditions and limitations: $1,500,000 of the appropriation is provided solely for a demonstration project that supports homeless individuals with low cost living quarters and shared facilities such as kitchens, showers, and community meeting space. The project must meet all local zoning requirements and have the support of the local jurisdiction in which it is located. The department must require the project to report cost and outcome measures after the first five years of operation, and must report this information to the appropriate committees of the legislature.

Appropriation:
State Taxable Building Construction Account—State. $4,530,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $4,530,000

NEW SECTION. **Sec. 1015.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Weatherization (91000247)

The appropriation in this section is subject to the following conditions and limitations:

(1) $10,000,000 of the appropriation in this section is provided solely for low-income weatherization through the energy matchmakers program.

(2) $15,000,000 of the appropriation in this section is provided solely for continuation of the community energy efficiency program administered by WSU energy extension.

Appropriation:
State Taxable Building Construction Account—
State $25,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $25,000,000

NEW SECTION. **Sec. 1016.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Public Works Assistance Account Program 2013 Loan List (30000184)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the list of projects in LEAP capital document No. 2012-1B, developed February 18, 2012.

Appropriation:
Public Works Assistance Account—State $152,781,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $152,781,000

NEW SECTION. **Sec. 1017.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Public Works Pre-Construction Loan Program (91000319)

Appropriation:
Public Works Assistance Account—State $3,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $3,000,000

NEW SECTION. **Sec. 1018.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMERCE
Financing Energy/Water Efficiency (30000180)

Appropriation:
Public Works Assistance Account—State $5,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $5,000,000

Sec. 1019. 2011 1st sp.s. c 49 s 1017 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Youth Recreational Facilities Grants (30000007)

The reappropriation in this section is subject to the following conditions and limitations: Funding for the Allen Place project is reduced by $673,000.

Reappropriation:

State Building Construction Account—State . . . . . ((~~$2,774,000~~)) $2,101,000

Prior Biennia (Expenditures) $3,776,000

Future Biennia (Projected Costs) $0

TOTAL . . . . . ((~~$6,550,000~~)) $5,877,000

***NEW SECTION.** Sec. 1020. A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:*

FOR THE OFFICE OF FINANCIAL MANAGEMENT

Loan Program Consolidation Board (91000005)

The appropriation in this section is subject to the following conditions and limitations:

(1) The legislature intends to consolidate under a single financing authority all existing state lending programs currently dispersed under the management of separate agencies, including, but not limited to, infrastructure and student loan programs. The purposes of this consolidation are to: Increase the effective and accountable use of state resources; increase efficiency and decrease costs through economies of scale; and streamline access for customers to financial and technical assistance.

(2)(a) To assist the legislature in planning for this consolidation, a loan program consolidation board is established, with members as provided in this subsection:

(i) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives, as voting members.

(ii) The president of the senate shall appoint one member from each of the two largest caucuses of the senate, as voting members.

(iii) The speaker of the house and the president of the senate jointly shall appoint five citizen members with backgrounds in the financing of infrastructure and student loans, as voting members.

(b) The board shall choose its chair or cochairs from among its membership. The director of the office of financial management shall convene the initial meeting of the board.

(c) Staff support for the board shall be provided by the office of financial management, the house of representatives office of program research and the senate committee services. The relevant state agencies must provide technical assistance as the board may reasonably request.

(d) Legislative members of the loan program consolidation board must 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.

(3) The following agencies shall each designate a representative to provide information to the board and participate in its discussions: The office of financial management; the state treasurer; the department of health; the department of ecology; the department of transportation; the public works board; the higher education coordinating board, or successor agency; and the state housing finance commission.

(4)(a) By December 15, 2012, the loan program consolidation board shall develop and submit to the governor and appropriate legislative committees a recommended consolidation plan that includes, but is not limited to, infrastructure and educational lending programs administered by the departments of commerce, health, and ecology; the housing finance commission; the office of the state treasurer; and the higher education coordinating board, or successor agency.

(b) The plan must include recommendations on: The organizational structure for the umbrella authority; the process and timeline for transferring existing programs and adding new programs to the umbrella authority; and any statutory and budgetary changes necessary to implement the plan in the 2013-2015 biennium, and thereafter.

(c) The plan must also include recommendations on sources of capital that could be used to make low-interest educational loans to students under the higher education loan program (HELP) authorized in RCW 28B.97.010.

(5) The appropriation in this section is provided solely for:

(a) Contracting with additional persons who have specific technical expertise to carry out the requirements of this section; and

(b) Paying travel expenses of nonlegislative members of the loan program consolidation board.

Appropriation:
Public Works Assistance Account—State $150,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $150,000

***Sec. 1020 was vetoed. See message at end of chapter.**

Sec. 1021. 2011 1st sp.s. c 49 s 1036 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT
Bid Savings Contingency Pool (92000002)

Appropriation:
State Building Construction Account—State . . . . . ((~~$6,500,000~~)) $0

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$6,500,000~~)) $0

Sec. 1022. 2011 1st sp.s. c 49 s 1046 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ((~~GENERAL ADMINISTRATION~~)) ENTERPRISE SERVICES

Engineering and Architectural Services: Staffing (91000005)

The appropriation in this section is subject to the following conditions and limitations:

Up to $75,000 is for the department of enterprise services to conduct a review of the state's current public works procurement processes and provide a report by December 15, 2012, to the appropriate committees of the legislature and the governor with procurement reform recommendations. For recommendations that require a statutory change, the report should include draft legislation needed to accomplish the report's recommendations. The director may contract with a private entity for assistance to conduct the study. The capital projects advisory review board will provide advice and assistance as required by the director. The report will include historical data on (1) the use of change orders; (2) the use of job order contracting; (3) how are competitive public works contracts advertised; and (4) contract closeout procedures. State agencies that will participate include one research university, one natural resource agency, and one general government agency.

Appropriation:
State Building Construction Account—State . . . . . ((~~$5,282,000~~)) $7,751,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $34,250,000
TOTAL . . . . . ((~~$39,532,000~~)) $42,001,000

NEW SECTION. **Sec. 1023.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Legislative Building Critical Repairs (92000004)

Appropriation:
State Building Construction Account—State $1,400,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,400,000

Sec. 1024. 2011 1st sp.s. c 49 s 1047 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ((~~GENERAL ADMINISTRATION~~)) ENTERPRISE SERVICES

Natural Resource Building Roof Replacement and Exterior Foam Insulation System Repairs (30000546)

Appropriation:
State Building Construction Account—State . . . . . ((~~$4,482,000~~)) $982,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$4,482,000~~))
$982,000

NEW SECTION. **Sec. 1025.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Natural Resource Building Roof Replacement and Exterior Foam Insulation System Repairs (30000546)

Appropriation:
Capitol Building Construction Account—State $3,500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $3,500,000

NEW SECTION. **Sec. 1026.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE MILITARY DEPARTMENT

Thurston County Readiness Center (91000005)

Appropriation:
General Fund—Federal $75,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $75,000

Sec. 1027. 2011 1st sp.s. c 49 s 1054 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Courthouse Preservation (30000006)

The appropriation in this section is subject to the following conditions and limitations: $150,000 of the appropriation in this section is provided solely for the Mason County Courthouse Renovation Project.

Appropriation:
State Building Construction Account—State $750,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $750,000

PART 2
HUMAN SERVICES

Sec. 2001. 2011 1st sp.s. c 48 s 2005 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH
Drinking Water Assistance Program (30000013)

The appropriations in this section are subject to the following conditions and limitations: The appropriation from the drinking water assistance account—federal stimulus is provided solely for the city of Tacoma McMillan Reservoir project and the city of Seattle Maple Leaf Reservoir project.

Reappropriation:
Drinking Water Assistance Account—Federal $38,348,000
Drinking Water Assistance Account—Federal Stimulus $9,373,000
Subtotal Reappropriation $47,721,000

Appropriation:
Drinking Water Assistance Account—Federal $49,868,000
Drinking Water Assistance Account—Federal Stimulus. $832,000
Subtotal Appropriation $50,700,000

Prior Biennia (Expenditures) $29,089,000
Future Biennia (Projected Costs) $199,472,000
TOTAL . . . . . ((~~$326,150,000~~))
$326,982,000

Sec. 2002. 2011 1st sp.s. c 48 s 2006 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS
Minor Works Preservation: Facilities Preservation (90000001)

Appropriation:
Charitable, Educational, Penal and Reformatory Institutions Account—State . . . . . ((~~$2,722,000~~))
$0

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$7,728,000~~))
$0
TOTAL . . . . . ((~~$10,450,000~~))
$0

NEW SECTION. **Sec. 2003.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS
Minor Works Preservation: Facilities Preservation (90000001)

Appropriation:
State Building Construction Account—State $2,722,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $6,008,000
TOTAL $8,730,000

NEW SECTION. **Sec. 2004.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS

Walla Walla Nursing Facility (20082008)

Appropriation:
General Fund—Federal $31,200,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $31,200,000

Sec. 2005. 2011 1st sp.s. c 49 s 2027 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Housing Units, Kitchen and Site Work (30000482)

Reappropriation:
State Building Construction Account—State $5,810,000
Public Safety Reimbursable Bond Account—State $546,000
Subtotal Reappropriation $6,356,000
Appropriation:
State Building Construction Account—State . . . . . ((~~$42,453,000~~)) $40,753,000

Prior Biennia (Expenditures) $463,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$49,272,000~~)) $47,572,000

Sec. 2006. 2011 1st sp.s. c 49 s 2034 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

New Prison Reception Center (30000570)

Appropriation:
State Building Construction Account—State . . . . . ((~~$6,200,000~~)) $0

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$246,181,000~~)) $252,226,000
TOTAL . . . . . ((~~$252,381,000~~)) $252,226,000

PART 3
NATURAL RESOURCES

Sec. 3001. 2011 1st sp.s. c 49 s 3027 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Habitat Mitigation (91000007)

Reappropriation:
State Building Construction Account—State . . . . . ((~~$2,900,000~~)) $3,648,000

Prior Biennia (Expenditures) . . . . . ((~~$1,500,000~~)) $752,000
Future Biennia (Projected Costs) $0
TOTAL $4,400,000

NEW SECTION. **Sec. 3002.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Clean Up Toxic Sites - Puget Sound (91000032)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the following ranked list of projects. If a specified project has not met the requirements for executing a contract with the department by April 30, 2013, the department may allocate the amount specified to additional projects awarded on a competitive basis provided that the awardee is ready to proceed with the project.

Project	**Authorized Amount**
Port Gamble Bay - Open up 90 acres of geoduck tracks	$2,000,000
Port Gamble Bay - Source control, habitat preservation, and cleanup sustainability	$7,000,000
Administration	$270,000
Total	**$9,270,000**

Appropriation:
State Toxics Control Account—State $9,270,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $9,270,000

NEW SECTION. **Sec. 3003.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Eastern Washington Clean Sites Initiative (91000033)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the following ranked list of projects. If a specified project has not met the requirements for executing a contract with the department by April 30, 2013, the department may allocate the amount specified to additional projects awarded on a competitive basis provided that the awardee is ready to proceed with the project.

Project	Authorized Amount
Cashmere Mill Site	$1,500,000
Administration	$45,000
Total	**$1,545,000**

Appropriation:
State Toxics Control Account—State $1,545,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,545,000

NEW SECTION. **Sec. 3004.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

FY 2012 Statewide Storm Water Grant Program (91000053)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the following ranked list of projects. If a specified project has not met the requirements for executing a contract with the department by April 30, 2013, the department may allocate the amount specified to additional grants awarded on a competitive basis provided that the grant awardee is ready to proceed with the project.

Project	Authorized Amount
Lakewood 2012 Drywell Replacement Project	$330,000
Ferndale Southwest Storm Water Management Facility	$871,000
Tacoma Cheney Stadium Storm Water LID Retrofit	$1,000,000
Bellingham Central Business District Raingarden Retrofits	$450,000
Walla Walla 13th Avenue Storm Water LID Project	$290,000
Spokane County Regional Decant Facility	$684,000
Milton 5th Avenue Storm Water Treatment Facility	$112,000
Pierce County Clarks/Rody Creek Storm Water Retrofits	$829,000
Mount Vernon Downtown Plaza	$351,000
Vancouver Water Quality Retrofits for Existing Drywells	$562,000
Camas Vactor Waste Facility Retrofit	$150,000
Tumwater Valley Regional Storm Water Facility	$469,000
West Richland Bombing Range Outfall Elimination Project	$479,000
Kitsap County Parks: Replace and Installation of Pervious Parking Lots	$735,000

Woodinville Lake Leota Storm Water Quality Retrofit Project	$866,000
Richland Leslie Groves Park Regional Infiltration Facility	$199,000
Spokane County Country Homes Boulevard Restoration Project	$1,000,000
Redmond NE 84th Street Storm Water Retrofit	$1,000,000
Pierce County Groundwater Pollutant Reduction Project	$578,000
Kitsap County Illahee Storm Water - LID Retrofit Project	$625,000
Bellingham Storm Water Retrofit - Bloedel Donovan Park	$384,000
Puyallup Porus Alley Initiative Program	$665,000
Lacey Vactor Waste Decant Facility	$342,000
Fife 70th Avenue East Phase 2	$786,000
Kent James Street Storm Water Outfall Retrofit	$75,000
Renton Sunset Terrace Regional Storm Water Facility	$983,000
Sumner Site A.2 Outfall Treatment Retrofit	$1,000,000
Asotin Second Street Storm Water Project	$172,000
University Place Bridgeport Way Low Impact Development Project	$758,000
Sumner Site J Outfall Treatment Retrofit	$538,000
Richland Canyon Terrace Storm Water Treatment Project	$211,000
Olympia SPSCC Storm Water Retrofit for Water Quality	$312,000
Renton Harrington Avenue NE Green Connection	$913,000
Longview Municipal Pervious Concrete	$86,000
Kirkland Northeast King County Co-op Recycling Decant Center	$2,250,000
Burlington Gages Slough Storm Water LID Improvements	$204,000
Clark County Columbia River High School Storm Water Retrofit	$267,000
Bainbridge Island Lynwood Center Outfall Improvement Project	$188,000
Puyallup Clarks Creek Targeted Outfall Retrofit Project	$551,000

Pierce County Tacoma Narrows Airport Pavement Removal	$326,000
Pierce County Spanaway Lake Park Storm Water Retrofit	$690,000
Administrative Costs	$792,000
Total	**$24,073,000**

Appropriation:
Local Toxics Control Account—State $24,073,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $24,073,000

NEW SECTION. **Sec. 3005.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Storm Water Retrofit and LID Competitive Grants (91000054)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the following ranked list of projects. If a specified project has not met the requirements for executing a contract with the department by April 30, 2013, the department may allocate the amount specified to additional grants awarded on a competitive basis provided that the grant awardee is ready to proceed with the project.

Project	**Authorized Amount**
Burien Miller Creek Storm Water Management Facility	$1,000,000
Tacoma Asotin Court LID Retrofit	$710,000
Seattle Public Utilities Midvale Storm Water Facility	$1,000,000
Mukilteo Smuggler's Gulch Drainage Basin LID and Storm Water Retrofit	$1,000,000
Kirkland Park Lane Pedestrian Corridor	$739,000
Port Angeles 4th Street Storm Water Project	$1,000,000
Snohomish County Department of Parks & Recreation Kayak Park Storm Water Treatment	$1,000,000
Renton Rainier Avenue Storm Water Retrofit	$644,000
Vancouver Peterson Channel Industrial LID Improvements	$287,000
Wenatchee Snowmelt Facility	$975,000
Port Orchard Cedar Heights Junior High Sidewalks	$135,000
Centralia Downtown Rain Garden Revitalization Project	$487,000
Snohomish County Paine Field Drainage Subbasin SC-5	$967,000

Seattle Public Utilities West Seattle Decant Facility	$289,000
Skagit County LID Demonstration Project	$291,000
Snohomish LID Improvements Project	$104,000
Douglas County 23rd Street (Baker to SR 28)	$165,000
Renton NE 10th St and Anacortes Ave NE Detention Pond Retrofit	$206,000
Redmond Public Works Kelsey Creek Erosion Reduction Facility	$1,000,000
Whatcom County Upper Silver Beach Creek Restoration	$988,000
Port of Vancouver Terminal 4 Storm Water Pond Retrofit	$1,000,000
Administrative Costs	$476,000
Total	**$14,463,000**

Appropriation:
Local Toxics Control Account—State. $14,463,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $14,463,000

Sec. 3006. 2011 1st sp.s. c 49 s 3008 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Columbia River Basin Water Supply Development Program (20062950)

The appropriations in this section are subject to the following conditions and limitations:

(1) $1,000,000 of the appropriation is provided solely to the Columbia basin groundwater management area for the following projects:

(a) $600,000 of the appropriation is provided solely to construct localized hydrologic models for municipal supply sources and aquifer storage and recovery potential; and

(b) $400,000 of the appropriation is provided solely to develop and implement methods to identify sustainable wells near the East Low Canal.

(2) $6,000,000 of the appropriation is provided solely for the Sunnyside Valley Irrigation District Water Conservation program.

(3) The department must reexamine its method of accounting for in-stream and out-of-stream benefits and develop a means of accounting for the indirect but substantial and tangible out-of-stream benefits that accrue from conservation, pump exchanges, and other projects. The department must report the results of this reexamination to the legislature by September 15, 2011.

Reappropriation:
Columbia River Basin Water Supply Development
Account—State. $23,987,000

Appropriation:
Columbia River Basin Water Supply Development
Account—State . . . . . ((~~$47,000,000~~))
$36,596,000
Columbia River Basin Taxable Bond Water
Supply Development Account—State $10,404,000
Subtotal Appropriation $47,000,000

Prior Biennia (Expenditures) $20,513,000
Future Biennia (Projected Costs) $128,700,000
TOTAL $220,200,000

Sec. 3007. 2011 1st sp.s. c 48 s 3024 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Centennial Clean Water Program (30000208)

The appropriation in this section is subject to the following conditions and limitations:

(1) $3,500,000 of the appropriation is provided solely to the city of Snohomish to implement the near-term wastewater treatment plant improvement project required under agreed order No. 7973 between the department of ecology and the city.

(2) $3,500,000 of the appropriation is provided solely for a grant for the Freeland sewer project.

(3) ((~~$540,000 of the appropriation is provided solely for the city of Connell's Klindworth Campbell waterline distribution project.~~

~~(4)~~)) $600,000 of the appropriation is provided solely for a grant for the town of Mabton's wastewater treatment project.

(((~~(5)~~))) (4) For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade audit is obtainable, the department of ecology must require as a contract condition that the project sponsor undertake an investment grade audit. The project sponsor may finance the costs of the audit as part of its centennial clean water program grant.

Appropriation:
State Toxics Control Account—State $34,100,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $34,100,000

Sec. 3008. 2011 1st sp.s. c 49 s 3028 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Protect Communities from Flood and Drought (92000002)

Reappropriation:
State Building Construction Account—State . . . . . ((~~$6,475,000~~))
$8,172,000

Prior Biennia (Expenditures) . . . . . ((~~$8,500,000~~))
$6,609,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$14,975,000~~))
$14,781,000

NEW SECTION. **Sec. 3009.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Flood Levee Improvements (92000057)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the King county flood district for the Briscoe-Desimone levee improvement project.

Appropriation:
Local Toxics Control Account—State $7,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $7,000,000

Sec. 3010. 2011 1st sp.s. c 48 s 3025 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Water Pollution Control Revolving Fund Program (30000209)

The appropriations in this section are subject to the following conditions and limitations:

(1) For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade audit is obtainable, the department of ecology must require as a contract condition that the project sponsor undertake an investment grade audit. The project sponsor may finance the costs of the audit as part of its water pollution control revolving fund program loan.

(2) $7,939,000 of the appropriation is provided solely for the LOTT clean water alliance primary sedimentation basins project.

Appropriation:
Water Pollution Control Revolving
Account—State . . . . . ((~~$102,000,000~~))
$109,939,000
Water Pollution Control Revolving Account—Federal $82,205,000
Subtotal Appropriation . . . . . ((~~$184,205,000~~))
$192,144,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $736,820,000
TOTAL . . . . . ((~~$921,025,000~~))
$928,964,000

Sec. 3011. 2011 1st sp.s. c 48 s 3036 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Clean Up Toxics Sites - Puget Sound (30000265)

Appropriation:
((~~Local Toxics Control Account—State~~)) State Toxics Control Account—State $16,400,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $11,248,000
TOTAL $27,648,000

NEW SECTION. **Sec. 3012.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Solid Waste Reduction - Compost (91000197)

Appropriation:
State Toxics Control Account—State $1,694,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,694,000

NEW SECTION. **Sec. 3013.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE PARKS AND RECREATION COMMISSION
Deferred Maintenance (91000030)

The appropriation in this section is subject to the following conditions and limitations: $250,000 of the appropriation is provided solely for improvements at Mt. Spokane state park.

Appropriation:
State Building Construction Account—State $1,070,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,070,000

NEW SECTION. **Sec. 3014.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Picnic Shelters (91000018)

Appropriation:
State Building Construction Account—State $500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $500,000

NEW SECTION. **Sec. 3015.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Wallace Falls Footbridge (91000047)

Appropriation:
State Building Construction Account—State $486,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $486,000

NEW SECTION. **Sec. 3016.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Energy Conservation (91000040)

Appropriation:
State Building Construction Account—State $215,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $215,000

NEW SECTION. Sec. 3017. A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Lake Sammamish Concession and Event Facility (91000034)

Appropriation:
State Building Construction Account—State. $1,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,000,000

***Sec. 3017 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 3018.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Culverts (91000046)

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. 3019.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE RECREATION AND CONSERVATION FUNDING BOARD
Family Forest Fish Passage Program (91000097)

Appropriation:
State Toxics Control Account—State $10,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $10,000,000

Sec. 3020. 2011 1st sp.s. c 49 s 3070 (uncodified) is amended to read as follows:

FOR THE RECREATION AND CONSERVATION FUNDING BOARD
Puget Sound Estuary and Salmon Restoration Program (30000148)

The appropriation in this section is subject to the following conditions and limitations:

(1) $750,000 of the appropriation is provided solely for acquisition of land in Dabob Bay by the nature conservancy for transfer to the department of natural resources.

(2) The balance of the appropriation shall not be expended on the acquisition of lands by state agencies.

Appropriation:
State Building Construction Account—State $5,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $20,000,000
TOTAL $25,000,000

NEW SECTION. **Sec. 3021.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE STATE CONSERVATION COMMISSION
Livestock Nutrient Program (30000001)

Appropriation:
General Fund—Federal $1,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,000,000

NEW SECTION. **Sec. 3022.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES
Point Ruston Sediment Capping and Shoreline Restoration Stabilization (91000065)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely to the department of natural resources to complete sediment capping and shoreline stabilization on aquatic lands located adjacent to the Asarco clean-up site in Commencement Bay. However, funds shall only be expended if the department has entered into agreements with the environmental protection agency or the adjacent land owner

known as Point Ruston, LLC which fully relieves the state from any further liability or contributions relating to the cleanup of such aquatic lands.

(2) This appropriation from the cleanup settlement account is a loan payable over an eight-year period half from the aquatic lands enhancement account and half from the state toxics control account. The state treasurer must maintain a record of expenditures against this appropriation and must calculate repayment obligations to the cleanup settlement account at an interest rate that is five-tenths of a one percent higher than the interest rate that the account would have earned without the expenditures against this appropriation. The state treasurer must submit a report of this repayment obligation to the office of financial management by September 1st of each year. The governor's budget request under RCW 43.88.060 must include sufficient funds to meet the biennial repayment obligation.

Appropriation:
Cleanup Settlement Account—State $7,200,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $7,200,000

Sec. 3023. 2011 1st sp.s. c 48 s 3083 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

((~~Elk River Estuarine~~)) National Coastal Wetland Conservation Program Lands Acquisition (91000007)

Reappropriation:
General Fund—Federal $1,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,000,000

Sec. 3024. 2011 1st sp.s. c 49 s 3108 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Fire Hazard Reductions (30000201)

The appropriation in this section is subject to the following conditions and limitations: The appropriations in this section are provided solely for forest ((~~improvement~~)) treatments ((~~on~~)) that benefit state trust lands in eastern Washington.

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. 3025.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Puget SoundCorps (91000046)

The appropriation is subject to the following conditions and limitations: The appropriation in this section is provided solely for water quality and habitat protection and restoration projects that benefit Puget Sound recovery and that are primarily on public lands. The department of natural resources must contract with the department of ecology for Puget SoundCorps crews of youth and military veterans to implement these projects pursuant to chapter 20, Laws of 2011.

Appropriation:

Aquatic Lands Enhancement Account—State. $3,000,000

Prior Biennia (Expenditures). $0

Future Biennia (Projected Costs). $0

TOTAL $3,000,000

PART 4
TRANSPORTATION

NEW SECTION. **Sec. 4001.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE WASHINGTON STATE PATROL

Fire Training Academy Self Contained Breathing Apparatus Building (30000067)

Appropriation:

Fire Service Training Account—State. $244,000

Prior Biennia (Expenditures). $0

Future Biennia (Projected Costs). $0

TOTAL $244,000

NEW SECTION. **Sec. 4002.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE WASHINGTON STATE PATROL

Fire Training Academy Master Plan/Environmental Impact Study (30000066)

Appropriation:

Fire Service Training Account—State. $400,000

Prior Biennia (Expenditures). $0

Future Biennia (Projected Costs). $0

TOTAL $400,000

PART 5
EDUCATION

Sec. 5001. 2011 1st sp.s. c 49 s 5002 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Vocational Skills Centers (20084300)

Reappropriation:
State Building Construction Account—State . . . . . ((~~$3,187,000~~))
$2,226,000
School Construction and Skills Centers Building
Account—State. $119,000
Subtotal Reappropriation . . . . . ((~~$3,306,000~~))
$2,345,000

Prior Biennia (Expenditures). $67,401,000
Future Biennia (Projected Costs). $0
TOTAL . . . . . ((~~$70,707,000~~))
$69,746,000

Sec. 5002. 2011 1st sp.s. c 49 s 5008 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Skills Centers Minor Works - Facility Preservation (30000111)

Appropriation:
State Building Construction Account—State . . . . . ((~~$3,000,000~~))
$2,942,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). . . . . ((~~$12,000,000~~))
$20,000,000
TOTAL . . . . . ((~~$15,000,000~~))
$22,942,000

Sec. 5003. 2011 1st sp.s. c 49 s 5009 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Yakima Valley Technical Skills Center (30000076)

Appropriation:
State Building Construction Account—State . . . . . ((~~$28,461,000~~))
$25,443,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL . . . . . ((~~$28,461,000~~))
$25,443,000

Sec. 5004. 2011 1st sp.s. c 49 s 5004 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
2009-11 School Construction Assistance Grant Program (30000031)

The reappropriations in this section are subject to the following conditions and limitations: Up to $14,000,000 of the state building construction account—state reappropriation in this section is for the Grand Coulee Dam school district school project, contingent on the availability of sufficient contributions from federal, local, ((~~or~~)) private, or other sources to make up the remainder of the total cost of the project. The Grand Coulee Dam school district is faced with a unique set of local funding barriers and federal or other funds may substitute as the usual requirement for school district participation. In the event sufficient matching contributions are not secured by the Grand Coulee Dam school district, these funds shall lapse.

Reappropriation:
State Building Construction Account—State $129,681,000
School Construction and Skill Centers Building
Account—Bond—State $40,885,000
Subtotal Reappropriation $170,566,000

Prior Biennia (Expenditures) $144,862,000
Future Biennia (Projected Costs) $0
TOTAL $315,428,000

Sec. 5005. 2011 1st sp.s. c 48 s 5003 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
2011-13 School Construction Assistance Program (30000071)

The appropriations in this section are subject to the following conditions and limitations:

(1) $1,337,000 of the common school construction account—state appropriation is provided solely for study and survey grants and for completing inventory and building condition assessments for all public school districts once every six years.

(2) In calculating square foot eligibility for state assistance grants, kindergarten student headcount shall not be reduced by fifty percent.

(3) $952,000 of the common school construction account—state appropriation is provided solely for mapping the design of new facilities and remapping the design of facilities to be remodeled, for school construction projects funded through the school construction assistance program.

Appropriation:
Common School Construction Account—State . . . . . ((~~$314,960,000~~)) $307,558,000
Common School Construction Account—Federal . . . . . ((~~$600,000~~)) $1,600,000
Subtotal Appropriation . . . . . ((~~$315,560,000~~)) $309,158,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$1,351,581,000~~))
$1,351,139,000
TOTAL . . . . . ((~~$1,667,141,000~~))
$1,660,297,000

Sec. 5006. 2011 1st sp.s. c 49 s 5006 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
2011-13 School Construction Assistance Program (30000071)

The appropriation in this section is subject to the following conditions and limitations:

(1) In calculating square foot eligibility for state assistance grants, kindergarten student headcount shall not be reduced by fifty percent.

(2) The office of the superintendent of public instruction shall review the impact of students enrolled in alternative learning experiences on the calculation of student enrollment projections for determining school district eligibility for school construction assistance, and shall work with interested stakeholders to analyze whether the calculation should be changed. The results of the analysis, including possible recommendations for an adjustment factor, shall be submitted to the senate ways and means committee and the house capital budget committee no later than December 31, 2011.

Appropriation:
State Building Construction Account—State . . . . . ((~~$345,754,000~~))
$247,404,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$1,581,765,000~~))
$1,586,015,000
TOTAL . . . . . ((~~$1,927,519,000~~))
$1,833,419,000

NEW SECTION. **Sec. 5007.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Transition to New ALE-Adjusted Construction Asst. Formula (92000002)

The appropriation is subject to the following conditions and limitations: The appropriation is provided solely for reimbursement of demonstrated direct and actual preconstruction costs incurred by the Meridian, Eastmont, and Yakima school districts through January 31, 2012, related to project square footage affected under Substitute Senate Bill No. 6002. These funds may also be used to provide assistance to the aforementioned districts for revising plans, redesigning projects, or otherwise managing the transition to the amended formula with preference given to those districts with alternative learning experience student full-time equivalent enrollments making up less than five percent of total student full-time equivalent enrollments.

Appropriation:
Common School Construction Account—State $350,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $350,000

NEW SECTION. **Sec. 5008.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

FOR THE CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS

Lloyd Auditorium Emergency Repairs (30000012)

Reappropriation:
State Building Construction Account—State $1,858,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,858,000

Sec. 5009. 2011 1st sp.s. c 48 s 5007 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS

Minor Public Works (30000013)

Appropriation:
Charitable, Educational, Penal and Reformatory
Institutions Account—State . . . . . ((~~$536,000~~))
$0

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$3,811,000~~))
$0
TOTAL . . . . . ((~~$4,347,000~~))
$0

Sec. 5010. 2011 1st sp.s. c 48 s 5006 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE BLIND

General Campus Preservation (30000018)

Appropriation:
Charitable, Educational, Penal and Reformatory
Institutions Account—State . . . . . ((~~$550,000~~))
$0

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$2,557,000~~))
$0
TOTAL . . . . . ((~~$3,107,000~~))
$0

NEW SECTION. **Sec. 5011.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

University of Washington Tacoma Campus Development and Soil Remediation (92000002)

Appropriation:
State Toxics Control Account—State $700,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $700,000

Sec. 5012. 2011 1st sp.s. c 49 s 5022 (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Anderson Hall Renovation (20091002)

Appropriation:
State Building Construction Account—State . . . . . ((~~$1,553,000~~)) $0

Prior Biennia (Expenditures) $200,000
Future Biennia (Projected Costs) . . . . . ((~~$19,997,000~~)) $0
TOTAL . . . . . ((~~$21,750,000~~)) $200,000

NEW SECTION. **Sec. 5013.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

University of Washington Bothell (20082006)

In conjunction with the appropriation in this section, the University of Washington is authorized to issue a bond or bonds in an amount not to exceed $30,000,000 in value for construction of the Bothell Phase 3 project identified in this section. The bond shall be financed from building fee and trust land revenues deposited into the university's bond retirement account, in accordance with RCW 28B.20.700 through 28B.20.740.

Appropriation:
University of Washington Building Account—State. $12,963,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $12,963,000

Sec. 5014. 2011 1st sp.s. c 48 s 5014 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE UNIVERSITY

Washington State University Spokane - Riverpoint Biomedical and Health Sciences (20162953)

In conjunction with the appropriations in this section, the Washington State University is authorized to issue a bond or bonds in an amount not to exceed $29,775,000 in value for construction of the Riverpoint biomedical and health sciences project identified in this section. The bond shall be financed from building fee and trust land revenues deposited into the university's bond retirement account, in accordance with RCW 28B.30.700 through 28B.30.780.

Appropriation:
Washington State University Building Account—
State $3,770,000
State Toxics Control Account—State $1,300,000
Subtotal Appropriation $5,070,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$3,770,000~~))
$5,070,000

Sec. 5015. 2011 1st sp.s. c 48 s 5027 (uncodified) is amended to read as follows:

FOR THE CENTRAL WASHINGTON UNIVERSITY
Minor Works Preservation: Preservation (30000444)

Appropriation:
Central Washington University Capital
Projects Account—State . . . . . ((~~$7,000,000~~))
$7,430,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$10,000,000~~))
$9,570,000
TOTAL $17,000,000

NEW SECTION. **Sec. 5016.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE CENTRAL WASHINGTON UNIVERSITY
Combined Utilities (30000448)

Appropriation:
Central Washington University Capital Projects
Account—State $273,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $273,000

Sec. 5017. 2011 1st sp.s. c 49 s 5030 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON UNIVERSITY
Minor Works: Health, Safety, and Code Requirements (20081002)

Reappropriation:
State Building Construction Account—State . . . . . ((~~$286,000~~))
$129,000

Prior Biennia (Expenditures) $3,871,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$4,157,000~~))
$4,000,000

Sec. 5018. 2011 1st sp.s. c 48 s 5022 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON UNIVERSITY
Minor Works: Preservation (30000427)

Appropriation:
Eastern Washington University Capital Projects
Account—State. . . . . ((~~$9,205,000~~))
$11,745,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$9,205,000~~))
$11,745,000

Sec. 5019. 2011 1st sp.s. c 48 s 5040 (uncodified) is amended to read as follows:

FOR THE WESTERN WASHINGTON UNIVERSITY
Minor Works: Preservation (30000431)

Appropriation:
Western Washington University Capital Projects
Account—State. . . . . ((~~$8,264,000~~))
$9,794,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$16,600,000~~))
$15,070,000
TOTAL $24,864,000

Sec. 5020. 2011 1st sp.s. c 49 s 5070 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Clover Park Technical College - Allied Health Care Facility (20062699)

Reappropriation:
State Building Construction Account—State $317,000
Appropriation:
State Building Construction Account—State . . . . . ((~~$20,706,000~~))
$20,585,000

Prior Biennia (Expenditures) $1,748,000
Future Biennia (Projected Costs) $0

TOTAL . . . . . ((~~$22,771,000~~))
$22,650,000

Sec. 5021. 2011 1st sp.s. c 49 s 5082 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Everett Community College: Index Hall Replacement (20081221)

Reappropriation:
State Building Construction Account—State $1,468,000
Appropriation:
State Building Construction Account—State . . . . . ((~~$31,988,000~~))
$31,357,000

Prior Biennia (Expenditures) $3,489,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$36,945,000~~))
$36,314,000

Sec. 5022. 2011 1st sp.s. c 49 s 5088 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Tacoma Community College: Health Careers Center (20082701)

Reappropriation:
State Building Construction Account—State $906,000
Appropriation:
State Building Construction Account—State $39,107,000

Prior Biennia (Expenditures) $1,160,000
Future Biennia (Projected Costs) . . . . . ((~~$38,819,000~~))
$0
TOTAL . . . . . ((~~$40,885,000~~))
$41,173,000

NEW SECTION. **Sec. 5023.** A new section is added to 2011 1st sp.s. c 48 (uncodified) to read as follows:

FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES
Equipment Pool (92000011)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is for major equipment in high demand fields from among the list as specified in LEAP capital document No. 2012-34, developed March 7, 2012. The state board for community and technical colleges may allocate amounts among the equipment items specified to cover differences in actual bid prices, but may not allocate amounts to equipment items not on the list.

Appropriation:
Community/Technical College Capital Projects
Account—State $2,700,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $2,700,000

PART 6
MISCELLANEOUS

***Sec. 6001.** 2011 1st sp.s. c 48 s 7011 (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) Community and technical colleges:

(a) Enter into a financing contract on behalf of Columbia basin college for up to $2,500,000 plus financing and required reserves pursuant to chapter 39.94 RCW to add space to the delta high school for the science technology engineering math program.

(b) Enter into a financing contract on behalf of Peninsula college for up to $2,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to renovate the Forks Satellite building.

(c) Enter into a financing contract on behalf of Peninsula college for up to $800,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to build a wellness center on the Port Angeles campus.

(d) Enter into a financing contract on behalf of Walla Walla Community College for up to $1,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase up to 40 acres of land.

(e) Enter into a financing contract on behalf of Walla Walla Community College for up to $1,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the water and environment center.

(f) Enter into a financing contract on behalf of Wenatchee Valley Community College for up to $2,700,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a music and art center.

(g) Enter into a financing contract on behalf of Whatcom community college for up to $3,916,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to build an auxiliary services building.

(h) Enter into a financing contract on behalf of Skagit Valley Community College for up to $30,574,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to build an academic and student services building.

(i) Enter into a financing contract on behalf of Lower Columbia Community College for up to $38,615,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to build a health and science building.

(j) Enter into a financing contract on behalf of Everett Community College for up to $4,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to renovate a corporate and continuing education building.

(k) Enter into a financing contract on behalf of Spokane Community College for up to $3,100,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to replace the institute for extended learning building.

(l) Enter into a financing contract on behalf of the state board for community and technical colleges for up to $50,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the administrative system replacement project pursuant to RCW 28B.50.515(4).

(m) Enter into a long-term lease on behalf of Spokane Community College at Geiger Field suitable for the Aerospace Training Center Program, subject to the approval of the Office of Financial Management as required by chapter 43.82 RCW.

(2) Central Washington University: Enter into a financing contract for up to $2,500,000 plus financing and required reserves pursuant to chapter 39.94 RCW to purchase the Albertsons's building.

(3) Department of general administration:

(a) 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 rehabilitation of the John L. O'Brien building.

(b) Enter into a financing contract for up to $250,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the "Perry Street child care site" land purchase.

(4) Department of social and health services: Enter into a financing contract for up to $15,850,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct or renovate specialized housing and treatment facilities for youth committed to the juvenile rehabilitation administration. The debt service is to be paid with the savings associated with closure of the Maple Lane school.

(5) Washington State Parks:

(a) Enter into a financing contract for up to $1,620,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for revenue generating facilities including cabins and yurts.

(b) Enter into a financing contract for up to $2,135,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the Lake Sammamish concession and event facility.

***Sec. 6001 was partially vetoed. See message at end of chapter.**

****NEW SECTION. Sec. 6002. FOR THE DEPARTMENT OF COMMERCE***

The department of commerce shall work with stakeholders to develop recommendations for a competitive grant program to assist the following nonprofit arts and cultural organizations in acquiring, constructing, or rehabilitating their facilities: Zoos, aquariums, and technology and science centers. To be eligible, a zoo or aquarium must be an organization accredited by the association of zoos and aquariums and a technology and science center must be an organization that meets the membership requirements of the association of science - technology centers. The department and stakeholders shall consider the inclusion of the conditions used in RCW 43.63A.750 to establish eligibility and prioritization of funding. The department shall submit final recommendations in the form of draft legislation to the office of financial management and the legislature by October 1, 2012.

***Sec. 6002 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 6003.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

It is the intent of the legislature that the state dispose of its interest in the Wellington Hills property. Net proceeds from the sale of the Wellington Hills property shall be deposited into the University of Washington building account. The University of Washington must report to the office of financial management and the appropriate fiscal committees of the legislature upon the sale of the property the total sale value and net proceeds deposited into the University of Washington building account.

Sec. 6004. RCW 43.155.050 and 2011 1st sp.s. c 50 s 951 are each amended to read as follows:

The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital

facility planning loans. ((~~For the 2007-2009 biennium, moneys in the account may be used for grants for projects identified in section 138, chapter 488, Laws of 2005 and section 1033, chapter 520, Laws of 2007. During the 2009-2011 fiscal biennium, sums in the public works assistance account may be used for the water pollution control revolving fund program match in section 3013, chapter 36, Laws of 2010 1st sp. sess. During the 2009-2011 fiscal biennium, the legislature may transfer from the job development fund to the general fund such amounts as reflect the excess fund balance of the fund.~~)) During the 2011-2013 fiscal biennium, the legislature may transfer from the public works assistance account to the general fund, the water pollution control revolving account, and the drinking water assistance account such amounts as reflect the excess fund balance of the account. During the 2011-2013 fiscal biennium, the legislature may appropriate moneys from the account for economic development, innovation, and export grants, including brownfields; main street improvement grants; and the loan program consolidation board.

Sec. 6005. RCW 70.105D.070 and 2011 1st sp.s. c 50 s 964 are each reenacted and amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more

expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship;

(xii) Development and demonstration of alternative management technologies designed to carry out the hazardous waste management priorities of RCW 70.105.150;

(xiii) During the 2009-2011 and 2011-2013 fiscal biennia, shoreline update technical assistance;

(xiv) During the 2009-2011 fiscal biennium, multijurisdictional permitting teams; and

(xv) During the 2011-2013 fiscal biennium, actions for reducing public exposure to toxic air pollution, and actions taken through the family forest fish passage program to correct barriers to fish passage on privately owned small forest lands.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority:

(i) Remedial actions;

(ii) Hazardous waste plans and programs under chapter 70.105 RCW;

(iii) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(iv) Funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and

(v) Cleanup and disposal of hazardous substances from abandoned or derelict vessels, defined for the purposes of this section as vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel, that pose a threat to human health or the environment.

(b) Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that is a Puget Sound partner, as defined in RCW 90.71.010, along with any project that is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, shall, except as conditioned by RCW 70.105D.120, receive priority for any available funding for any grant or funding programs or sources that use a competitive bidding process. During the 2007-2009 fiscal biennium, moneys in the account may also be used for grants to local governments to retrofit public sector diesel equipment and for storm water planning and implementation activities.

(c) To expedite cleanups throughout the state, the department shall partner with local communities and liable parties for cleanups. The department is authorized to use the following additional strategies in order to ensure a healthful environment for future generations:

(i) The director may alter grant-matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(A) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(B) Funding would create new substantial economic development, public recreational, or habitat restoration opportunities that would not otherwise occur; or

(C) Funding would create an opportunity for acquisition and redevelopment of vacant, orphaned, or abandoned property under RCW 70.105D.040(5) that would not otherwise occur;

(ii) The use of outside contracts to conduct necessary studies;

(iii) The purchase of remedial action cost-cap insurance, when necessary to expedite multiparty clean-up efforts.

(d) To facilitate and expedite cleanups using funds from the local toxics control account, during the 2009-2011 fiscal biennium the director may establish grant-funded accounts to hold and disperse local toxics control account funds and funds from local governments to be used for remedial actions.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) Except during the 2009-2011 fiscal biennium, one percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation, or, after January 1, 2010, for projects designed to address the restoration of Puget Sound, funded in a competitive grant process, that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(7) The department shall adopt rules for grant or loan issuance and performance.

(8) During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the local toxics control account to either the state general fund or the oil spill prevention account, or both such amounts as reflect excess fund balance in the account.

(9) During the 2009-2011 fiscal biennium, the local toxics control account may also be used for a standby rescue tug at Neah Bay, local government shoreline update grants, private and public sector diesel equipment retrofit, and oil spill prevention, preparedness, and response activities.

(10) During the 2009-2011 fiscal biennium, the legislature may transfer from the state toxics control account to the state general fund such amounts as reflect the excess fund balance in the account.

(11) During the 2011-2013 fiscal biennium, the local toxics control account may also be used for local government shoreline update grants and actions for reducing public exposure to toxic air pollution; funding to local governments for flood levee improvements; and grants to local governments for brownfield redevelopment.

Sec. 6006. RCW 79.17.010 and 2009 c 497 s 6024 are each amended to read as follows:

(1) The department, with the approval of the board, may exchange any state land and any timber thereon for any land of equal value in order to:

(a) Facilitate the marketing of forest products of state lands;

(b) Consolidate and block-up state lands;

(c) Acquire lands having commercial recreational leasing potential;

(d) Acquire county-owned lands;

(e) Acquire urban property which has greater income potential or which could be more efficiently managed by the department in exchange for state urban lands as defined in RCW 79.19.100; or

(f) Acquire any other lands when such exchange is determined by the board to be in the best interest of the trust for which the state land is held.

(2) Land exchanged under this section shall not be used to reduce the publicly owned forest land base.

(3) The board shall determine that each land exchange is in the best interest of the trust for which the land is held prior to authorizing the land exchange.

(4) During the biennium ending June 30, ((~~2011~~)) 2013, for the purposes of maintaining working farm and forest landscapes or acquiring natural resource lands at risk of development, the department, with approval of the board of natural resources, may exchange any state land and any timber thereon for any land and proceeds of equal value, when it can be demonstrated that the trust fiduciary obligations can be better fulfilled after an exchange is completed. Proceeds may be in the form of cash or services in order to achieve the purposes established in this section. Any cash received as part of an exchange transaction shall be deposited in the resource management cost account to pay for administrative expenses incurred in carrying out an exchange transaction. These administrative expenses include road maintenance and abandonment expenses. The amount of proceeds received from the exchange partner may not exceed five percent of the total value of the exchange. The receipt of proceeds shall not change the character of the transaction from an exchange to a sale.

(5) Prior to executing an exchange under this section, and in addition to the public notice requirements set forth in RCW 79.17.050, the department shall consult with legislative members, other state and federal agencies, local governments, tribes, local stakeholders, conservation groups, and any other interested parties to identify and address cultural resource issues and the potential of the state lands proposed for exchange to be used for open space, park, school, or critical habitat purposes.

Sec. 6007. RCW 79.17.020 and 2009 c 497 s 6025 are each amended to read as follows:

(1) The board of county commissioners of any county and/or the mayor and city council or city commission of any city or town and/or the board shall have authority to exchange, each with the other, or with the federal forest service, the federal government or any proper agency thereof and/or with any private landowner, county land of any character, land owned by municipalities of any character, and state forest land owned by the state under the jurisdiction of the department, for real property of equal value for the purpose of consolidating and blocking up the respective land holdings of any county, municipality, the federal government, or the state of Washington or for the purpose of obtaining lands having commercial recreational leasing potential.

(2) During the biennium ending June 30, ((~~2011~~)) 2013, for the purposes of maintaining working farm and forest landscapes or acquiring natural resource lands at risk of development, the department, with approval of the board of natural resources, may exchange any state land and any timber thereon for any land and proceeds of equal value, when it can be demonstrated that the trust fiduciary obligations can be better fulfilled after an exchange is completed. Proceeds may be in the form of cash or services in order to achieve the purposes established in this section. Any cash received as part of an exchange transaction shall be deposited in the forest development account to pay for administrative expenses incurred in carrying out an exchange transaction. These administrative expenses include road maintenance and abandonment expenses. The amount of proceeds received from the exchange partner may not exceed five percent of the total value of the exchange. The receipt of proceeds shall not change the character of the transaction from an exchange to a sale.

(3) Prior to executing an exchange under this section, and in addition to the public notice requirements set forth in RCW 79.17.050, the department shall consult with legislative members, other state and federal agencies, local governments, tribes, local stakeholders, conservation groups, and any other interested parties to identify and address cultural resource issues, and the potential of the state lands proposed for exchange to be used for open space, park, school, or critical habitat purposes.

Sec. 6008. RCW 79.105.150 and 2011 2nd sp.s. c 9 s 6009 are each amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects. During the 2009-2011 and 2011-2013 fiscal biennia, the aquatic lands enhancement account may also be used for scientific research as part of the adaptive management process and for developing a planning report for McNeil Island. During the 2009-2011 and 2011-2013 fiscal biennia, the legislature may transfer from the aquatic lands enhancement account to the state general fund such amounts as reflect excess fund balance of the account. During the 2011-2013 fiscal biennium, the aquatic lands enhancement account may be used to support the shellfish program, the

ballast water program, and the Puget Sound toxic sampling program at the department of fish and wildlife, ((~~and~~)) the knotweed program at the department of agriculture, and the Puget SoundCorps program.

(2) In providing grants for aquatic lands enhancement projects, the recreation and conservation funding board shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) Utilize the statement of environmental benefits, consideration, except as provided in RCW 79.105.610, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, whether a project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, and except as otherwise provided in RCW 79.105.630, and effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030 in its prioritization and selection process; and

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

(5) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

NEW SECTION. **Sec. 6009.**

FOR THE STATE TREASURER—TRANSFERS

State Taxable Building Construction Account: For transfer to the Columbia River Basin Taxable Bond Water Supply Development Account, an amount not to exceed $10,404,000.

NEW SECTION. **Sec. 6010.** A new section is added to 2011 1st sp.s. c 49 (uncodified) to read as follows:

NONTAXABLE AND TAXABLE BOND PROCEEDS

Portions of the appropriation authority granted by this act from the state building construction account, or any other account receiving bond proceeds, may be transferred to the state taxable building construction account as deemed necessary by the state finance committee to comply with the federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds. Portions of the general obligation bond proceeds authorized by chapter 49, Laws of 2011 1st sp. sess. for deposit into the state taxable building construction account that are in excess of amounts required to comply with the federal internal revenue service rules and regulations shall be deposited into the state building construction account. The state treasurer shall submit written notification to the director of financial management if it is determined that a shift of appropriation authority between the state building construction account, or

any other account receiving bond proceeds, and the state taxable building construction account is necessary, or that a shift of appropriation authority from the state taxable building construction account to the state building construction account may be made.

NEW SECTION. **Sec. 6011.** The office of financial management, in consultation with the legislative fiscal committees, shall choose a consultant to identify and evaluate options for the efficient and cost-effective incarceration by the department of corrections of adult prison offenders forecasted over the next ten years. Options to be evaluated must include, but are not limited to: (1) Construction of one or more new prisons; (2) construction of new prison units at existing facilities; (3) replacement, remodeling, or repurposing of existing, aged, inefficient capacity; and (4) management and use of emergency beds. The study must include, for each option, the estimated capital, operating, and debt service costs for the next ten years. The study must also discuss the risks, advantages, and disadvantages of each option. In addition, the department must identify all emergency beds, their current status, and the cost to bring on-line and operate any currently empty emergency beds and projected needs. The report must be submitted to the governor and the fiscal committees of the legislature no later than October 1, 2012.

NEW SECTION. **Sec. 6012.** 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. 6013.** 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 April 11, 2012.
Passed by the House April 11, 2012.
Approved by the Governor April 23, 2012, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 24, 2012.

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

"I am returning, without my approval as to Sections 1020, 3017, 6001(5)(b), and 6002, Engrossed Senate Bill 6074 entitled:

"AN ACT Relating to funding capital projects."

Section 1020, pages 16-18, Office of Financial Management, Loan Program Consolidation Board

This proviso creates a loan program consolidation board to recommend a plan to consolidate under a single financing authority all existing state lending programs, including infrastructure and student loan programs. There have been five prior studies reviewing consolidation of infrastructure programs within the last six years. The most recent study was completed by the Public Works Board following the 2011 legislative session and provides ample information for a potential consolidation. Additionally, I do not believe it is appropriate for student loan programs to be comingled with infrastructure programs targeted to local governments and community groups. The Student Achievement Council is tasked to convene a work group on the higher education loan program and can better focus on reforming that program to meet the needs of today's students. For these reasons, I have vetoed Section 1020.

Section 3017, page 36, and Section 6001(5)(b), page 55, State Parks and Recreation Commission, Lake Sammamish Concession and Event Facility

The State Parks and Recreation Commission is provided $1 million in general obligation bonds and authorization to enter into a certificate of participation financing contract for $2.1 million to build a concession and event facility at Lake Sammamish. It is not anticipated that the revenue initially generated by the event center will be adequate to cover the associated debt and operating costs. Additionally, other revenue generated by the State Parks and Recreation Commission is not stable enough to cover these costs if facility revenues are inadequate. For these reasons, I have vetoed Section 3017 and Section 6001(5)(b), but I encourage the commission to resubmit this project for consideration for the next supplemental capital budget if the revenue outlook improves.

Section 6002, pages 55-56, Department of Commerce

The Department of Commerce is directed to work with stakeholders to develop recommendations for a competitive grant program to assist zoos, aquariums, and technology and science centers in acquiring, constructing, or rehabilitating their facilities. A funding mechanism for these organizations was the subject of legislation that failed to pass this session.

For this reason, I have vetoed Section 6002, but I encourage the organizations to continue to work with legislators, rather than the department, to address their concerns with developing a capital funding program for their facility needs.

Although I am approving the remainder of the capital budget, I am concerned about the long-term implications of over-appropriating the State and Local Toxics Control Accounts, the Aquatic Lands Enhancement Account, and other natural resource accounts in both the capital and operating budgets. I have directed the Office of Financial Management to work with the Department of Ecology and the Recreation and Conservation Office to develop a plan to manage these accounts to prevent a cash deficit. However, there is a risk that lower revenue collections or accelerated project costs could create the need to suspend projects to balance the accounts. While I value the economic activity and

jobs that are created in the capital budget, I ask the Legislature to return to budgeting practices that result in sustainable capital plans with positive fund balances.

With the exception of Sections 1020, 3017, 6001(5)(b), and 6002, Engrossed Senate Bill 6074 is approved."

CHAPTER 3

[Engrossed Substitute Senate Bill 5940]

SCHOOL EMPLOYEE BENEFITS

AN ACT Relating to public school employees' insurance benefits; amending RCW 28A.400.280, 28A.400.350, 28A.400.275, and 42.56.400; adding a new section to chapter 48.02 RCW; adding a new section to chapter 41.05 RCW; adding a new section to chapter 44.28 RCW; adding a new section to chapter 48.62 RCW; and creating a new section.

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

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

(a) Each year, nearly one billion dollars in public funds are spent on the purchase of employee insurance benefits for more than two hundred thousand public school employees and their dependents;

(b) The legislature and school districts and their employees need better information to improve current practices and inform future decisions with regard to health insurance benefits;

(c) Recent work by the state auditor's office and the state health care authority have advanced discussions throughout the state on opportunities to improve the current system; and

(d) Two major themes have emerged: (i) The state, school districts, and employees need better information and data to make better health insurance purchasing decisions within the K-12 system; (ii) affordability is a significant concern for all employees, especially for employees seeking full family insurance coverage and for the lowest-paid and part-time employees.

(2) The legislature establishes the following goals:

(a) Improve the transparency of health benefit plan claims and financial data to assure prudent and efficient use of taxpayers' funds at the state and local levels;

(b) Create greater affordability for full family coverage and greater equity between premium costs for full family coverage and for employee only coverage for the same health benefit plan;

(c) Promote health care innovations and cost savings, and significantly reduce administrative costs; and

(d) Provide greater parity in state allocations for state employee and K-12 employee health benefits.

(3) The legislature intends to retain current collective bargaining for benefits, and retain state, school district, and employee contributions to benefits.

Sec. 2. RCW 28A.400.280 and 2011 c 269 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, school districts may provide employer fringe benefit contributions after October 1, 1990, only for basic benefits. However, school districts may continue payments under contracts with employees or benefit providers in effect on April 13, 1990, until the contract expires.

(2) School districts may provide employer contributions after October 1, 1990, for optional benefit plans, in addition to basic benefits, only for employees included in pooling arrangements under this subsection. Optional benefits may include direct agreements as defined in chapter 48.150 RCW, but may not include employee beneficiary accounts that can be liquidated by the employee on termination of employment. Optional benefit plans may be offered only if:

(a) The school district pools benefit allocations among employees using a pooling arrangement that includes at least one employee bargaining unit and/or all nonbargaining group employees;

(b) Each full-time employee included in the pooling arrangement is offered basic benefits, including coverage for dependents((~~, without a payroll deduction for premium charges~~));

(c) Each employee included in the pooling arrangement who elects medical benefit coverage pays a minimum premium charge subject to collective bargaining under chapter 41.59 or 41.56 RCW;

(d) The employee premiums are structured to ensure employees selecting richer benefit plans pay the higher premium;

(e) Each full-time employee included in the pooling arrangement, regardless of the number of dependents receiving basic coverage, receives the same additional employer contribution for other coverage or optional benefits; and

(((~~(d)~~))) (f) For part-time employees included in the pooling arrangement, participation in optional benefit plans shall be governed by the same eligibility criteria and/or proration of employer contributions used for allocations for basic benefits.

(3) Savings accruing to school districts due to limitations on benefit options under this section shall be pooled and made available by the districts to reduce out-of-pocket premium expenses for employees needing basic coverage for dependents. School districts are not intended to divert state benefit allocations for other purposes.

Sec. 3. RCW 28A.400.350 and 2011 c 269 s 2 are each amended to read as follows:

(1) The board of directors of any of the state's school districts or educational service districts may make available liability, life, health, health care, accident, disability, and salary protection or insurance, direct agreements as defined in chapter 48.150 RCW, or any one of, or a combination of the types of employee benefits enumerated in this subsection, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district or educational service district, and their dependents. Such coverage may be provided by contracts or agreements with private carriers, with the state health care authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law. Any direct agreement must comply with RCW 48.150.050.

(2) Whenever funds are available for these purposes the board of directors of the school district or educational service district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts or educational service districts and their dependents. The premiums on such liability insurance shall be borne by the school district or educational service district.

After October 1, 1990, school districts may not contribute to any employee protection or insurance other than liability insurance unless the district's employee benefit plan conforms to RCW 28A.400.275 and 28A.400.280.

(3) For school board members, educational service district board members, and students, the premiums due on such protection or insurance shall be borne by the assenting school board member, educational service district board member, or student. The school district or educational service district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school, school district, or educational service district. The school district board of directors and the educational service district board may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors or the educational service district board, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district or educational service district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

(4) All contracts or agreements for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW.

(5) School districts offering medical, vision, and dental benefits shall:

(a) Offer a high deductible health plan option with a health savings account that conforms to section 223, part VII of subchapter 1 of the internal revenue code of 1986. School districts shall comply with all applicable federal standards related to the establishment of health savings accounts;

(b) Make progress toward employee premiums that are established to ensure that full family coverage premiums are not more than three times the premiums for employees purchasing single coverage for the same coverage plan, unless a subsequent premium differential target is defined as a result of the review and subsequent actions described in section 6 of this act;

(c) Offer employees at least one health benefit plan that is not a high deductible health plan offered in conjunction with a health savings account in which the employee share of the premium cost for a full-time employee, regardless of whether the employee chooses employee-only coverage or coverage that includes dependents, does not exceed the share of premium cost paid by state employees during the state employee benefits year that started immediately prior to the school year.

(6) All contracts or agreements for employee benefits must be held to responsible contracting standards, meaning a fair, prudent, and accountable competitive procedure for procuring services that includes an open competitive process, except where an open process would compromise cost-effective purchasing, with documentation justifying the approach.

(7) School districts offering medical, vision, and dental benefits shall also make progress on promoting health care innovations and cost savings and significantly reduce administrative costs.

(8) All contracts or agreements for insurance or protection described in this section shall be in compliance with this act.

(9) Upon notification from the office of the insurance commissioner of a school district's substantial noncompliance with the data reporting requirements of RCW 28A.400.275, and the failure is due to the action or inaction of the school district, and if the noncompliance has occurred for two reporting periods, the superintendent is authorized and required to limit the school district's authority provided in subsection (1) of this section regarding employee health benefits to the provision of health benefit coverage provided by the state health care authority.

Sec. 4. RCW 28A.400.275 and 1990 1st ex.s. c 11 s 5 are each amended to read as follows:

(1) Any contract or agreement for employee benefits executed after April 13, 1990, between a school district and a benefit provider or employee bargaining unit is null and void unless it contains an agreement to abide by state laws relating to school district employee benefits. The term of the contract or agreement may not exceed one year.

(2) School districts and their benefit providers shall annually submit, by a date determined by the office of the insurance commissioner, the following information and data for the prior calendar year to the ((~~Washington state health care authority a summary descriptions of all benefits offered under the district's employee benefit plan. The districts shall also submit data to the health care authority specifying the total number of employees and, for each employee, types of coverage or benefits received including numbers of covered dependents, the number of eligible dependents, the amount of the district's contribution, additional premium costs paid by the employee through payroll deductions, and the age and sex of the employee and each dependent.~~)) office of the insurance commissioner:

(a) Progress by the district and its benefit providers toward greater affordability for full family coverage, health care cost savings, and significantly reduced administrative costs;

(b) Compliance with the requirement to provide a high deductible health plan option with a health savings account;

(c) An overall plan summary including the following:

(i) The financial plan structure and overall performance of each health plan including:

(A) Total premium expenses;

(B) Total claims expenses;

(C) Claims reserves; and

(D) Plan administration expenses, including compensation paid to brokers;

(ii) A description of the plan's use of innovative health plan features designed to reduce health benefit premium growth and reduce utilization of unnecessary health services including but not limited to the use of enrollee health assessments or health coach services, care management for high cost or high-risk enrollees, medical or health home payment mechanisms, and plan features designed to create incentives for improved personal health behaviors;

(iii) Data to provide an understanding of employee health benefit plan coverage and costs, including: The total number of employees and, for each employee, the employee's full-time equivalent status, types of coverage or benefits received including numbers of covered dependents, the number of eligible dependents, the amount of the district's contribution to premium, additional premium costs paid by the employee through payroll deductions, and the age and sex of the employee and each dependent;

(iv) Data necessary for school districts to more effectively and competitively manage and procure health insurance plans for employees. The data must include, but not be limited to, the following:

(A) A summary of the benefit packages offered to each group of district employees, including covered benefits, employee deductibles, coinsurance, and copayments, and the number of employees and their dependents in each benefit package;

(B) Aggregated employee and dependent demographic information, including age band and gender, by insurance tier and by benefit package;

(C) Total claim payments by benefit package, including premiums paid, inpatient facility claims paid, outpatient facility claims paid, physician claims paid, pharmacy claims paid, capitation amounts paid, and other claims paid;

(D) Total premiums paid by benefit package;

(E) A listing of large claims defined as annual amounts paid in excess of one hundred thousand dollars including the amount paid, the member enrollment status, and the primary diagnosis.

(3) Annually, school districts and their benefit providers shall jointly report to the office of the insurance commissioner on their health insurance-related efforts and achievements to:

(a) Significantly reduce administrative costs for school districts;

(b) Improve customer service;

(c) Reduce differential plan premium rates between employee only and family health benefit premiums;

(d) Protect access to coverage for part-time K-12 employees.

(4) The ((~~plan descriptions and the~~)) information and data shall be submitted in a format and according to a schedule established by the ((~~health care authority~~)) office of the insurance commissioner under section 5 of this act to enable the commissioner to meet the reporting obligations under that section.

(((~~(3)~~))) (5) Any benefit provider offering a benefit plan by contract or agreement with a school district under subsection (1) of this section shall ((~~agree to~~)) make available to the school district the benefit plan descriptions and, where available, the demographic information on plan subscribers that the district ((~~is~~)) and benefit provider are required to report to the ((~~Washington state health care authority~~)) office of the insurance commissioner under this section.

(((~~(4)~~))) (6) This section shall not apply to benefit plans offered in the 1989-90 school year.

NEW SECTION. **Sec. 5.** A new section is added to chapter 48.02 RCW to read as follows:

(1) For purposes of this section, "benefit provider" has the same meaning as provided in RCW 28A.400.270.

(2)(a) By December 1, 2013, and December 1st of each year thereafter, the commissioner shall submit a report to the governor, the health care authority, and the legislature on school district health insurance benefits. The report shall be available to the public on the commissioner's web site. The confidentiality of personally identifiable district employee data shall be safeguarded consistent with the provisions of RCW 42.56.400(21).

(b) The report shall include a summary of each school district's health insurance benefit plans and each district's aggregated financial data and other information as required in RCW 28A.400.275.

(3) The commissioner shall collect data from school districts or their benefit providers to fulfill the requirements of this section. The commissioner may adopt rules necessary to implement the data submission requirements under this section and RCW 28A.400.275, including, but not limited to, the format, timing of data reporting, data elements, data standards, instructions, definitions, and data sources.

(4) In fulfilling the duties under this act, the commissioner shall consult with school district representatives to ensure that the data and reports from benefit providers will give individual school districts sufficient information to enhance districts' ability to understand, manage, and seek competitive alternatives for health insurance coverage for their employees.

(5) If the commissioner determines that a school district has not substantially complied with the reporting requirements of RCW 28A.400.275, and the failure is due to the action or inaction of the school district, the commissioner will inform the superintendent of public instruction of the noncompliance.

(6) Data, information, and documents, other than those described in subsection (2) of this section, that are provided by a school district or an entity providing coverage pursuant to this section are exempt from public inspection and copying under this act and chapters 42.17A and 42.56 RCW.

(7) If a school district or benefit provider does not comply with the data reporting requirements of this section or RCW 28A.400.275, and the failure is due to the actions of an entity providing coverage authorized under Title 48 RCW, the commissioner may take enforcement actions under this chapter.

(8) The commissioner may enter into one or more personal services contracts with third-party contractors to provide services necessary to accomplish the commissioner's responsibilities under this act.

NEW SECTION. **Sec. 6.** A new section is added to chapter 41.05 RCW to read as follows:

By June 1, 2015, the health care authority must report to the governor, legislature, and joint legislative audit and review committee the following duties and analyses, based on two years of reports on school district health benefits submitted to it by the office of the insurance commissioner:

(1) The director shall establish a specific target to realize the goal of greater equity between premium costs for full family coverage and employee only coverage for the same health benefit plan. In developing this target, the director

shall consider the appropriateness of the three-to-one ratio of employee premium costs between full family coverage and employee only coverage, and consider alternatives based on the data and information received from the office of the insurance commissioner.

(2) The director shall also study and report the advantages and disadvantages to the state, local school districts, and district employees:

(a) Whether better progress on the legislative goals could be achieved through consolidation of school district health insurance purchasing through a single consolidated school employee health benefits purchasing plan;

(b) Whether better progress on the legislative goals could be achieved by consolidating K-12 health insurance purchasing through the public employees' benefits board program, and whether consolidation into the public employees' benefits board program would be preferable to the creation of a consolidated school employee health benefits purchasing plan;

(c) Whether certificated or classified employees, as separate groups, would be better served by purchasing health insurance through a single consolidated school employee health benefits purchasing plan or through participation in the public employees' benefits board program; and

(d) Analyses shall include implications of taking any of the actions described in (a) through (c) of this subsection to include, at a minimum, the following: The costs for the state and school employees, impacts for existing purchasing programs, a proposed timeline for the implementation of any recommended actions.

NEW SECTION. **Sec. 7.** A new section is added to chapter 44.28 RCW to read as follows:

(1) By December 31, 2015, the joint committee must review the reports on school district health benefits submitted to it by the office of the insurance commissioner and the health care authority and report to the legislature on the progress by school districts and their benefit providers in meeting the following legislative goals to:

(a) Improve the transparency of health benefit plan claims and financial data to assure prudent and efficient use of taxpayers' funds at the state and local levels;

(b) Create greater affordability for full family coverage and greater equity between premium costs for full family coverage and employee only coverage for the same health benefit plan;

(c) Promote health care innovations and cost savings and significantly reduce administrative costs.

(2) The joint committee shall also make a recommendation regarding a specific target to realize the goal in subsection (1)(b) of this section.

(3) The joint committee shall report on the status of individual school districts' progress in achieving the goals in subsection (1) of this section.

(4)(a) In the 2015-2016 school year, the joint committee shall determine which school districts have met the requirements of RCW 28A.400.350 (5) and (6), and shall rank order these districts from highest to lowest in term of their performance in meeting the requirements.

(b) The joint committee shall then allocate performance grants to the highest performing districts from a performance fund of five million dollars appropriated by the legislature for this purpose. Performance grants shall be

used by school districts only to reduce employee health insurance copayments and deductibles. In determining the number of school districts to receive awards, the joint committee must consider the impact of the award on district employee copayments and deductibles in such a manner that the award amounts have a meaningful impact.

(5) If the joint committee determines that districts and their benefit providers have not made adequate progress, in the judgment of the joint committee, in achieving one or more of the legislative goals in subsection (1) of this section, the joint committee report to the legislature must contain advantages, disadvantages, and recommendations on the following:

(a) Why adequate progress has not been made, to the extent the joint committee is able to determine the reason or reasons for the insufficient progress;

(b) What legislative or agency actions would help remove barriers to improvement;

(c) Whether school district health insurance purchasing should be accomplished through a single consolidated school employee health benefits purchasing plan;

(d) Whether school district health insurance purchasing should be accomplished through the public employees' benefits board program, and whether consolidation into the public employees' benefits board program would be preferable to the creation of a consolidated school employee health benefits purchasing plan; and

(e) Whether certificated or classified employees, as separate groups, would be better served by purchasing health insurance through a single consolidated school employee health benefits purchasing plan or through participation in the public employees' benefits board program.

(6) The report shall contain any legislation necessary to implement the recommendations of the joint committee.

(7) The legislature shall take all steps necessary to implement the recommendations of the joint committee unless the legislature adopts alternative strategies to meet its goals during the 2016 session.

Sec. 8. RCW 42.56.400 and 2012 c 222 s 2 are each amended to read as follows:

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

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

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

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

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

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

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

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

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

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

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010; ((~~and~~))

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b); and

(21) Data, information, and documents, other than those described in section 5(2) of this act, that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and section 5 of this act.

NEW SECTION. **Sec. 9.** A new section is added to chapter 48.62 RCW to read as follows:

If an individual or joint local government self-insured health and welfare benefits program formed by a school district or educational service district does not comply with the data reporting requirements of RCW 28A.400.275 and section 5 of this act, the self-insured health and welfare benefits program is no longer authorized to operate in the state. The state risk manager shall notify the state auditor and the attorney general of the violation and the attorney general, on behalf of the state risk manager, must take all necessary action to terminate the operation of the self-insured health and welfare benefits program.

Passed by the Senate April 11, 2012.
Passed by the House April 11, 2012.
Approved by the Governor May 2, 2012.
Filed in Office of Secretary of State May 2, 2012.

CHAPTER 4

[Third Engrossed Second Substitute House Bill 2565]

ROLL-YOUR-OWN CIGARETTES

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

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

Sec. 1. RCW 82.24.010 and 1997 c 420 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Board" means the liquor control board.

(2) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state. "Cigarette" includes a roll-your-own cigarette.

(3) "Cigarette paper" means any paper or any other material except tobacco, prepared for use as a cigarette wrapper.

(4) "Cigarette tube" means cigarette paper made into a hollow cylinder for use in making cigarettes.

(5) "Commercial cigarette-making machine" means a machine that is operated in a retail establishment and that is capable of being loaded with loose tobacco, cigarette paper or tubes, and any other components related to the production of roll-your-own cigarettes, including filters.

(6) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian wholesaler or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country. For purposes of this chapter "Indian country" is defined in the manner set forth in 18 U.S.C. Sec. 1151.

(((~~(4)~~))) (7) "Precollection obligation" means the obligation of a seller otherwise exempt from the tax imposed by this chapter to collect the tax from that seller's buyer.

(((~~(5)~~))) (8) "Retailer" means every person, other than a wholesaler, who purchases, sells, offers for sale or distributes any one or more of the articles taxed herein, irrespective of quantity or amount, or the number of sales, and all persons operating under a retailer's registration certificate.

(((~~(6)~~))) (9) "Retail selling price" means the ordinary, customary or usual price paid by the consumer for each package of cigarettes, less the tax levied by this chapter and less any similar tax levied by this state.

(((~~(7)~~))) (10) "Roll-your-own cigarettes" means cigarettes produced by a commercial cigarette-making machine.

(11) "Stamp" means the stamp or stamps by use of which the tax levy under this chapter is paid or identification is made of those cigarettes with respect to which no tax is imposed.

(((~~(8)~~))) (12) "Wholesaler" means every person who purchases, sells, or distributes any one or more of the articles taxed herein to retailers for the purpose of resale only.

(((~~(9)~~))) (13) The meaning attributed, in chapter 82.04 RCW, to the words "person," "sale," "business" and "successor" applies equally in this chapter.

Sec. 2. RCW 82.24.030 and 2003 c 114 s 2 are each amended to read as follows:

(1) In order to enforce collection of the tax hereby levied, the department of revenue ((~~shall~~)) must design and have printed stamps of such size and denominations as may be determined by the department. The stamps must be affixed on the smallest container or package that will be handled, sold, used, consumed, or distributed, to permit the department to readily ascertain by inspection, whether or not such tax has been paid or whether an exemption from the tax applies.

(2) Except as otherwise provided in this chapter, only a wholesaler ((~~shall~~)) may cause to be affixed on every package of cigarettes, stamps of an amount equaling the tax due thereon or stamps identifying the cigarettes as exempt before he or she sells, offers for sale, uses, consumes, handles, removes, or otherwise disturbs and distributes the same((~~: PROVIDED, That~~)). However, where it is established to the satisfaction of the department that it is impractical to affix such stamps to the smallest container or package, the department may authorize the affixing of stamps of appropriate denomination to a large container or package.

(3) Except as otherwise provided in this chapter, only wholesalers may purchase or obtain cigarette stamps. Wholesalers ((~~shall~~)) may not sell or provide stamps to any other wholesaler or person.

(4) Each roll of stamps, or group of sheets, ((~~shall~~)) must have a separate serial number, which ((~~shall be~~)) is legible at the point of sale. The department of revenue ((~~shall~~)) must keep records of which wholesaler purchases each roll or group of sheets. If the department of revenue permits wholesalers to purchase partial rolls or sheets, in no case may stamps bearing the same serial number be sold to more than one wholesaler. The remainder of the roll or sheet, if any, ((~~shall~~)) must either be retained for later purchases by the same wholesaler or destroyed.

(5) Nothing in this section ((~~shall~~)) may be construed as limiting any otherwise lawful activity under a cigarette tax compact pursuant to chapter 43.06 RCW.

(6) In order to enforce collection of the tax in the case of roll-your-own cigarettes, a retailer must affix a stamp or stamps to each box or similar container provided by the retailer to the consumer. The box or similar container must be used by a consumer to transport roll- your-own cigarettes from the retailer's place of business. A retailer must provide cigarette tubes to a consumer in one or more twenty unit denominations. Stamps must be for an amount equaling the tax due under this chapter. Each cigarette tube or paper provided to the consumer is deemed a cigarette for purposes of imposing and collecting taxes under this chapter. Stamps for roll-your-own cigarettes must be issued and affixed in a manner determined by the department but as consistent as practicable with the stamping requirements for wholesalers.

Sec. 3. RCW 82.24.035 and 1999 c 193 s 5 are each amended to read as follows:

(1) No stamp may be affixed to, or made upon, any container or package of cigarettes if:

(a) The container or package differs in any respect with the requirements of the federal cigarette labeling and advertising act (15 U.S.C. Sec. 1331 et seq.) for the placement of labels, warnings, or any other information upon a package of cigarettes that is to be sold within the United States;

(b) The container or package has been imported into the United States after January 1, 2000, in violation of 26 U.S.C. Sec. 5754;

(c) The container or package, including a container of individually stamped containers or packages, is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or similar wording indicating that the manufacturer did not intend that the product be sold in the United States; or

(d) The container or package has been altered by adding or deleting the wording, labels, or warnings described in (a) or (c) of this subsection.

(2) In addition to the penalty and forfeiture provisions otherwise provided for in this chapter, a violation of this section is a deceptive act or practice under the consumer protection act, chapter 19.86 RCW.

(3) Subsection (1)(a) of this section does not apply to boxes or similar containers used by a consumer to transport roll-your-own cigarettes.

Sec. 4. RCW 82.24.050 and 2003 c 114 s 4 are each amended to read as follows:

(1) No retailer in this state may possess unstamped cigarettes within this state unless the person is also a wholesaler in possession of the cigarettes in accordance with RCW 82.24.040.

(2) A retailer may obtain cigarettes only from a wholesaler subject to the provisions of this chapter.

(3) Only a retailer licensed under this chapter may provide consumers with access to a commercial cigarette-making machine to make roll-your-own cigarettes. A retailer is prohibited from allowing the use of a commercial cigarette-making machine by a person unless, contemporaneously to the person's use of the machine, the retailer provides the consumer with a box or similar container to transport roll-your-own cigarettes and such box is affixed with the appropriate stamp or stamps as required under RCW 82.24.030(6). A consumer must transport roll-your-own cigarettes from a retailer's place of business only in such box or similar container.

(4) A commercial cigarette-making machine must have a secure meter that counts the number of cigarettes made, manufactured, or fabricated by the machine and that cannot be accessed, except for the sole purpose of taking meter readings, altered or reset by the machine operator.

Sec. 5. RCW 82.24.060 and 1961 c 15 s 82.24.060 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, stamps ((~~shall~~)) must be affixed in such manner that they cannot be removed from the package or container without being mutilated or destroyed, which stamps so affixed ((~~shall be~~)) are evidence of the tax imposed.

(2) In the case of cigarettes contained in individual packages, as distinguished from cartons or larger units, the stamps ((~~shall~~)) must be affixed securely on each individual package.

(3) With respect to roll-your-own cigarettes, stamps must be affixed securely on each individual box or similar container provided by the retailer to the consumer.

Sec. 6. RCW 82.24.110 and 2008 c 226 s 4 are each amended to read as follows:

(1) Each of the following acts is a gross misdemeanor and punishable as such:

(a) To sell, except as a licensed wholesaler engaged in interstate commerce as to the article being taxed herein, without the stamp first being affixed;

(b) To sell in Washington as a wholesaler to a retailer who does not possess and is required to possess a current cigarette retailer's license;

(c) To use or have in possession knowingly or intentionally any forged or counterfeit stamps;

(d) For any person other than the department of revenue or its duly authorized agent to sell any stamps not affixed to any of the articles taxed herein whether such stamps are genuine or counterfeit;

(e) For any person other than the department of revenue, its duly authorized agent, or a licensed wholesaler who has lawfully purchased or obtained them to possess any stamps not affixed to any of the articles taxed herein whether such stamps are genuine or counterfeit;

(f) To violate any of the provisions of this chapter;

(g) To violate any lawful rule made and published by the department of revenue or the board;

(h) To use any stamps more than once or any individual stamped box or similar container used to transport roll-your-own cigarettes more than once;

(i) To refuse to allow the department of revenue or its duly authorized agent, on demand, to make full inspection of any place of business where any of the articles herein taxed are sold or otherwise hinder or prevent such inspection;

(j) Except as otherwise provided in this chapter, for any retailer to have in possession in any place of business any of the articles herein taxed, unless the same have the proper stamps attached;

(k) For any person to make, use, or present or exhibit to the department of revenue or its duly authorized agent, any invoice for any of the articles herein taxed which bears an untrue date or falsely states the nature or quantity of the goods therein invoiced;

(l) For any wholesaler or retailer or his or her agents or employees to fail to produce on demand of the department of revenue all invoices of all the articles herein taxed or stamps bought by him or her or received in his or her place of business within five years prior to such demand unless he or she can show by satisfactory proof that the nonproduction of the invoices was due to causes beyond his or her control;

(m) For any person to receive in this state any shipment of any of the articles taxed herein, when the same are not stamped, for the purpose of avoiding payment of tax. It is presumed that persons other than dealers who purchase or receive shipments of unstamped cigarettes do so to avoid payment of the tax imposed herein;

(n) For any person to possess or transport in this state a quantity of ten thousand cigarettes or less unless the proper stamps required by this chapter have been affixed or unless: (i) Notice of the possession or transportation has been given as required by RCW 82.24.250; (ii) the person transporting the cigarettes has in actual possession invoices or delivery tickets which show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported; and (iii) the cigarettes are consigned to or purchased by any person in this state who is authorized by this chapter to possess unstamped cigarettes in this state;

(o) For any person to possess or receive in this state a quantity of ten thousand cigarettes or less unless the proper stamps required by this chapter have been affixed or unless the person is authorized by this chapter to possess unstamped cigarettes in this state and is in compliance with the requirements of this chapter; ((~~and~~))

(p) To possess, sell, distribute, purchase, receive, ship, or transport within this state any container or package of cigarettes that does not comply with this chapter; and

(q) For a retailer to provide consumers with access to a commercial cigarette-making machine without providing a box or similar container that has a properly affixed stamp or stamps.

(2) It is unlawful for any person knowingly or intentionally to possess or to:

(a) Transport in this state a quantity in excess of ten thousand cigarettes unless the proper stamps required by this chapter are affixed thereto or unless:

(i) Proper notice as required by RCW 82.24.250 has been given; (ii) the person transporting the cigarettes actually possesses invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported; and (iii) the cigarettes are consigned to or purchased by a person in this state who is authorized by this chapter to possess unstamped cigarettes in this state; or

(b) Receive in this state a quantity in excess of ten thousand cigarettes unless the proper stamps required by this chapter are affixed thereto or unless the person is authorized by this chapter to possess unstamped cigarettes in this state and is in compliance with this chapter.

(3) Violation of ((~~this~~)) subsection (2) ((~~shall be~~)) of this section is punished as a class C felony under Title 9A RCW.

(((~~(3)~~))) (4) All agents, employees, and others who aid, abet, or otherwise participate in any way in the violation of the provisions of this chapter or in any of the offenses described in this chapter ((~~shall be~~)) are guilty and punishable as principals, to the same extent as any wholesaler or retailer or any other person violating this chapter.

(((~~(4)~~))) (5) For purposes of this section, "person authorized by this chapter to possess unstamped cigarettes in this state" has the same meaning as in RCW 82.24.250.

Sec. 7. RCW 82.24.120 and 2007 c 111 s 102 are each amended to read as follows:

(1) If any person, subject to the provisions of this chapter or any rules adopted by the department of revenue under authority ((~~hereof~~)) of this section, is found to have failed to affix the stamps required, or to have them affixed as ((~~herein~~)) provided in this section, or to pay any tax due ((~~hereunder~~)) under this section, or to have violated any of the provisions of this chapter or rules adopted by the department of revenue in the administration ((~~hereof~~)) of this chapter, there ((~~shall~~)) must be assessed and collected from such person, in addition to any tax that may be found due, a remedial penalty equal to the greater of ten dollars per package of unstamped cigarettes or ten dollars per twenty roll-your-own cigarettes, or two hundred fifty dollars, plus interest on the amount of the tax at the rate as computed under RCW 82.32.050(2) from the date the tax became due until the date of payment, and upon notice mailed to the last known address of the person or provided electronically as provided in RCW 82.32.135. The amount ((~~shall become~~)) is due and payable in thirty days from the date of the notice. If the amount remains unpaid, the department or its duly authorized agent may make immediate demand upon such person for the payment of all such taxes, penalties, and interest.

(2) The department, for good reason shown, may waive or cancel all or any part of penalties imposed, but the taxpayer must pay all taxes due and interest thereon, at the rate as computed under RCW 82.32.050(2) from the date the tax became due until the date of payment.

(3) The keeping of any unstamped articles coming within the provisions of this chapter ((~~shall be~~)) is prima facie evidence of intent to violate the provisions of this chapter.

(4) This section does not apply to taxes or tax increases due under RCW 82.24.280.

Sec. 8. RCW 82.24.130 and 2003 c 114 s 7, 2003 c 113 s 4, and 2003 c 25 s 9 are each reenacted and amended to read as follows:

(1) The following are subject to seizure and forfeiture:

(a) Subject to RCW 82.24.250, any articles taxed in this chapter that are found at any point within this state, which articles are held, owned, or possessed by any person, and that do not have the stamps affixed to the packages or containers; any container or package of cigarettes possessed or held for sale that does not comply with this chapter; and any container or package of cigarettes that is manufactured, sold, or possessed in violation of RCW 82.24.570.

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

(i) A conveyance used by any person as a common or contract carrier having in actual possession invoices or delivery tickets showing the true name and address of the consignor or seller, the true name of the consignee or purchaser, and the quantity and brands of the cigarettes transported, unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(ii) A conveyance subject to forfeiture under this section by reason of any act or omission of which the owner thereof establishes to have been committed or omitted without his or her knowledge or consent;

(iii) A conveyance encumbered by a bona fide security interest if the secured party neither had knowledge of nor consented to the act or omission.

(c) Any vending machine <u>or commercial cigarette-making machine</u> used for the purpose of violating the provisions of this chapter.

(d) Any cigarettes that are stamped, sold, imported, or offered or possessed for sale in this state in violation of RCW 70.158.030(3). For the purposes of this subsection (1)(d), "cigarettes" has the meaning as provided in RCW 70.158.020(3).

((~~(e) All cigarettes sold, delivered, or attempted to be delivered in violation of RCW 70.155.105.~~))

(2) Property subject to forfeiture under this chapter may be seized by any agent of the department authorized to collect taxes, any enforcement officer of the board, or law enforcement officer of this state upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant; or

(b) The department, the board, or the law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter and exigent circumstances exist making procurement of a search warrant impracticable.

(3) Notwithstanding the foregoing provisions of this section, articles taxed in this chapter which are in the possession of a wholesaler, licensed under Washington state law, for a period of time necessary to affix the stamps after receipt of the articles, ((~~shall~~)) <u>are</u> not ((~~be~~)) considered contraband unless they are manufactured, sold, or possessed in violation of RCW 82.24.570.

Sec. 9. RCW 82.24.180 and 1996 c 149 s 8 are each amended to read as follows:

(1) The department of revenue may return any property seized under the provisions of this chapter when it is shown that there was no intention to violate the provisions thereof.

(2) When any property is returned under this section, the department may return such goods to the parties from whom they were seized if and when such parties affix the proper amount of stamps thereto, and pay to the department as penalty an amount equal to the greater of ten dollars per package of unstamped cigarettes or ten dollars per twenty roll-your-own cigarettes, or two hundred fifty dollars, and interest on the amount of the tax at the rate as computed under RCW 82.32.050(2) from the date the tax became due until the date of payment, and in such cases, no advertisement shall be made or notices posted in connection with said seizure.

Sec. 10. RCW 82.24.295 and 2001 c 235 s 6 are each amended to read as follows:

(1) The taxes imposed by this chapter do not apply to the sale, use, consumption, handling, possession, or distribution of cigarettes by an Indian retailer during the effective period of a cigarette tax contract subject to RCW 43.06.455.

(2) Effective July 1, 2002, wholesalers and retailers subject to the provisions of this chapter ((~~shall be~~)) are allowed compensation for their services in affixing the stamps required under this chapter a sum computed at the rate of six dollars per one thousand stamps purchased or affixed by them.

(3) In addition to the compensation allowed under subsection (2) of this section, retailers purchasing stamps for roll-your-own cigarettes are allowed additional compensation to offset the cost of the tax under chapter 82.26 RCW. The amount equals five cents per cigarette.

Sec. 11. RCW 82.24.500 and 2003 c 114 s 10 are each amended to read as follows:

No person may engage in or conduct the business of purchasing, selling, consigning, or distributing cigarettes in this state without a license under this chapter, or providing consumers with access to a commercial cigarette-making machine without a license under this chapter. A violation of this section is a class C felony.

Sec. 12. RCW 82.24.530 and 1993 c 507 s 15 are each amended to read as follows:

A fee of ninety-three dollars ((~~shall~~)) must accompany each retailer's license application or license renewal application. A separate license is required for each separate location at which the retailer operates. A fee of thirty additional dollars for each vending machine ((~~shall~~)) must accompany each application or renewal for a license issued to a retail dealer operating a cigarette vending machine. An additional fee of ninety-three dollars shall accompany each application or renewal for a license issued to a retail dealer operating a cigarette-making machine.

NEW SECTION. **Sec. 13.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2012.

Passed by the House April 11, 2012.
Passed by the Senate April 11, 2012.
Approved by the Governor May 2, 2012.
Filed in Office of Secretary of State May 2, 2012.

CHAPTER 5

[Engrossed Substitute House Bill 2823]

STATE GENERAL FUND—REVENUE REDIRECTION

AN ACT Relating to redirecting existing state revenues into the state general fund; amending RCW 43.135.045, 82.18.040, 82.08.160, 82.08.170, 43.110.030, 66.08.190, 66.08.196, 66.08.200, 66.08.210, and 43.63A.190; creating a new section; repealing RCW 43.110.050 and 43.110.060; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 43.135.045 and 2011 1st sp.s. c 50 s 950 are each amended to read as follows:

The education construction fund is hereby created in the state treasury.

(1) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction. During the 2007-2009 fiscal biennium, funds may also be used for higher education facilities preservation and maintenance. During the 2009-2011 and 2011-2013 fiscal biennia, the legislature may transfer from the education construction fund to the state general fund such amounts as reflect the excess fund balance of the fund.

(2) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection ((~~shall~~)) must result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and ((~~shall~~)) does not affect any subsequent fiscal period.

(3) Funds for the student achievement program in RCW 28A.505.210 and 28A.505.220 ((~~shall~~)) must be appropriated to the superintendent of public instruction strictly for distribution to school districts to meet the provisions set out in the student achievement act. Allocations ((~~shall~~)) must be made on an equal per full-time equivalent student basis to each school district.

(4) After July 1, 2010, the state treasurer ((~~shall~~)) must transfer one hundred two million dollars from the general fund to the education construction fund by June 30th of each year. However, the transfers may not take place in the fiscal biennium ending June 30, 2015.

Sec. 2. RCW 82.18.040 and 2011 1st sp.s. c 48 s 7034 are each amended to read as follows:

(1) Taxes collected under this chapter ((~~shall~~)) must be held in trust until paid to the state. Except as otherwise provided in this subsection (1), taxes received by the state ((~~shall~~)) must be deposited in the public works assistance account created in RCW 43.155.050((~~: PROVIDED, That during the fiscal year 2011~~)). For the period beginning July 1, 2011, and ending June 30, 2015, taxes received by the state under this chapter must be deposited in the general fund for general purpose expenditures. For fiscal years 2016, 2017, and 2018, one-half of the taxes received by the state under this chapter must be deposited in the

general fund for general purpose expenditures and the remainder deposited in the public works assistance account. Any person collecting the tax who appropriates or converts the tax collected ((~~shall be~~)) is guilty of a gross misdemeanor if the money required to be collected is not available for payment on the date payment is due. If a taxpayer fails to pay the tax imposed by this chapter to the person charged with collection of the tax and the person charged with collection fails to pay the tax to the department, the department may, in its discretion, proceed directly against the taxpayer for collection of the tax.

(2) The tax ((~~shall be~~)) is due from the taxpayer within twenty-five days from the date the taxpayer is billed by the person collecting the tax.

(3) The tax ((~~shall be~~)) is due from the person collecting the tax at the end of the tax period in which the tax is received from the taxpayer. If the taxpayer remits only a portion of the total amount billed for taxes, consideration, and related charges, the amount remitted ((~~shall~~)) must be applied first to payment of the solid waste collection tax and this tax ((~~shall have~~)) has priority over all other claims to the amount remitted.

Sec. 3. RCW 82.08.160 and 2011 1st sp.s. c 50 s 969 are each amended to read as follows:

(1) On or before the twenty-fifth day of each month, all taxes collected under RCW 82.08.150 during the preceding month must be remitted to the state department of revenue, to be deposited with the state treasurer. Except as provided in subsections (2) and (3) of this section, upon receipt of such moneys the state treasurer must credit sixty-five percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) and one hundred percent of the sums collected and remitted under RCW 82.08.150 (3) and (4) to the state general fund and thirty-five percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) to a fund which is hereby created to be known as the "liquor excise tax fund."

(2) During the ((~~2011-2013~~)) 2012 fiscal ((~~biennium~~)) year, 66.19 percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the state general fund and the remainder collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the liquor excise tax fund.

(3) During fiscal year 2013, all funds collected under RCW 82.08.150 (1), (2), (3), and (4) must be deposited into the state general fund.

Sec. 4. RCW 82.08.170 and 2002 c 38 s 3 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, during the months of January, April, July, and October of each year, the state treasurer ((~~shall~~)) must make the transfers required under subsections (2) and (3) of this section from the liquor excise tax fund and then the apportionment and distribution of all remaining moneys in the liquor excise tax fund to the counties, cities, and towns in the following proportions: (a) Twenty percent of the moneys in the liquor excise tax fund ((~~shall~~)) must be divided among and distributed to the counties of the state in accordance with the provisions of RCW 66.08.200; and (b) eighty percent of the moneys in the liquor excise tax fund ((~~shall~~)) must be divided among and distributed to the cities and towns of the state in accordance with the provisions of RCW 66.08.210.

(2) Each fiscal quarter and prior to making the twenty percent distribution to counties under subsection (1)(a) of this section, the treasurer shall transfer to the ((~~county research services account under RCW 43.110.050~~)) liquor revolving fund created in RCW 66.08.170 sufficient moneys to fund the allotments from any legislative appropriations ((~~from the county research services account~~)) for county research and services as provided under chapter 43.110 RCW.

(3) During the months of January, April, July, and October of each year, the state treasurer must transfer two million five hundred thousand dollars from the liquor excise tax fund to the state general fund.

(4) During calendar year 2012, the October distribution under subsection (1) of this section and the July and October transfers under subsections (2) and (3) of this section must not be made. During calendar year 2013, the January, April, and July distributions under subsection (1) of this section and transfers under subsections (2) and (3) of this section must not be made.

Sec. 5. RCW 43.110.030 and 2010 c 271 s 701 are each amended to read as follows:

(1) The department of commerce ((~~shall~~)) must contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services ((~~shall~~)) must be made with state agencies, educational institutions, or private consulting firms, that in the judgment of the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the department are qualified to provide such support.

(2) Municipal research and services ((~~shall~~)) consists of:

(a) Studying and researching city, town, and county government and issues relating to city, town, and county government;

(b) Acquiring, preparing, and distributing publications related to city, town, and county government and issues relating to city, town, and county government;

(c) Providing educational conferences relating to city, town, and county government and issues relating to city, town, and county government; and

(d) Furnishing legal, technical, consultative, and field services to cities, towns, and counties concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to city, town, and county government.

(3) Requests for legal services by county officials ((~~shall~~)) must be sent to the office of the county prosecuting attorney. Responses by the department of commerce to county requests for legal services ((~~shall~~)) must be provided to the requesting official and the county prosecuting attorney.

(4) The department of commerce ((~~shall~~)) must coordinate with the association of Washington cities and the Washington state association of counties in carrying out the activities in this section. ((~~Services to cities and towns shall be based upon the moneys appropriated to the department from the city and town research services account under RCW 43.110.060. Services to counties shall be based upon the moneys appropriated to the department from the county research services account under RCW 43.110.050.~~))

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

(1) RCW 43.110.050 (County research services account) and 2002 c 38 s 1 & 1997 c 437 s 3; and

(2) RCW 43.110.060 (City and town research services account) and 2010 c 271 s 702, 2002 c 38 s 4, & 2000 c 227 s 1.

NEW SECTION. **Sec. 7.** All moneys remaining in the county research services account and city and town research services account on July 1, 2012, must be deposited by the state treasurer into the general fund.

Sec. 8. RCW 66.08.190 and 2011 1st sp.s. c 50 s 960 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 must be distributed to the state general fund during the 2003-2005 biennium,~~)) Prior to making distributions described in subsection (2) of this section, amounts must be retained to support allotments under RCW 43.88.110 from any legislative appropriation for municipal research and services. The legislative appropriation for such services must be in the amount specified under RCW 66.24.065.

(2) When excess funds are distributed during the months of June, September, December, and March of each year, all moneys subject to distribution must be disbursed ((~~as follows:~~

~~(a) Three-tenths of one percent to border areas under RCW 66.08.195; and~~

~~(b) Except as provided in subsection (4) of this section, 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 must 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 must deposit the amount deducted into the city and town research services account.~~

~~(3) 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.~~

~~(4) During the 2011-2013 fiscal biennium, from the amount remaining after distribution under subsection (1)(a) of this section, (a) 51.7 percent to the general fund of the state, (b) 9.7 percent to the counties of the state, and (c) 38.6 percent to the incorporated cities and towns of the state~~)) to border areas, counties, cities, and towns as provided in RCW 66.24.065.

(3) The amount remaining after distributions under subsections (1) and (2) of this section must be deposited into the general fund.

Sec. 9. RCW 66.08.196 and 2001 c 8 s 2 are each amended to read as follows:

(1) Distribution of funds to border areas under RCW 66.08.190 and 66.24.290 (1)(((~~(a)~~))) (c) and (4) ((~~shall be~~)) is as follows:

(((~~(1)~~))) (a) Sixty-five percent of the funds ((~~shall~~)) must be distributed to border areas ratably based on border area traffic totals;

(((~~(2)~~))) (b) Twenty-five percent of the funds ((~~shall~~)) must be distributed to border areas ratably based on border-related crime statistics; and

(((~~(3)~~))) (c) Ten percent of the funds ((~~shall~~)) must be distributed to border areas ratably based upon border area per capita law enforcement spending.

(2) Distributions to an unincorporated area ((~~shall~~)) must be made to the county in which such an area is located and may only be spent on services provided to that area.

Sec. 10. RCW 66.08.200 and 1979 c 151 s 167 are each amended to read as follows:

With respect to the ((~~ten percent share coming~~)) distribution of funds to the counties, the computations for distribution ((~~shall~~)) must be made by the state agency responsible for collecting the same as follows:

(1) The share coming to each eligible county ((~~shall~~)) must be determined by a division among the eligible counties according to the relation which the population of the unincorporated area of such eligible county, as last determined by the office of financial management, bears to the population of the total combined unincorporated areas of all eligible counties, as determined by the office of financial management((~~: PROVIDED, That~~)). However, no county in which the sale of liquor is forbidden in the unincorporated area thereof as the result of an election ((~~shall be~~)) is entitled to share in such distribution. "Unincorporated area" means all that portion of any county not included within the limits of incorporated cities and towns.

(2) When a special county census has been conducted for the purpose of determining the population base of a county's unincorporated area for use in the distribution of liquor funds, the census figure ((~~shall~~)) becomes effective for the purpose of distributing funds as of the official census date once the census results have been certified by the office of financial management and officially submitted to the office of the secretary of state.

Sec. 11. RCW 66.08.210 and 1979 c 151 s 168 are each amended to read as follows:

(1) With respect to the ((~~forty percent share coming~~)) distribution of funds to the incorporated cities and towns under RCW 66.24.290(1)(c), the computations for distribution ((~~shall~~)) must be made by the state agency responsible for collecting the same as ((~~follows:~~)) provided in subsection (2) of this section.

(2) The share coming to each eligible city or town ((~~shall~~)) must be determined by a division among the eligible cities and towns within the state ratably on the basis of population as last determined by the office of financial management((~~: AND PROVIDED, That~~)). However, no city or town in which the sale of liquor is forbidden as the result of an election ((~~shall be~~)) is entitled to any share in such distribution.

Sec. 12. RCW 43.63A.190 and 1995 c 159 s 5 are each amended to read as follows:

Funds appropriated by the legislature as supplemental resources for border areas ((~~shall~~)) must be distributed by the state treasurer pursuant to the formula

for distributing funds ((~~from the liquor revolving fund~~)) to border areas, and expenditure requirements for such distributions, under RCW 66.08.196.

NEW SECTION. **Sec. 13.** Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 14.** Sections 1 and 3 through 12 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2012.

Passed by the House April 11, 2012.
Passed by the Senate April 11, 2012.
Approved by the Governor May 2, 2012.
Filed in Office of Secretary of State May 2, 2012.

CHAPTER 6

[Engrossed Senate Bill 6635]

TAX PREFERENCES AND LICENSE FEES

AN ACT Relating to improving revenue and budget sustainability by repealing, modifying, or revising tax preference and license fees; amending RCW 82.04.4292, 82.04.4266, 82.04.4268, 82.04.4269, 82.04.260, 82.08.986, 82.08.986, 82.12.986, 66.24.630, 82.29A.020, 82.04.214, and 82.04.260; adding a new section to chapter 82.04 RCW; creating new sections; providing an effective date; providing a contingent effective date; providing expiration dates; and declaring an emergency.

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

PART I
LIMITING THE FIRST INTEREST MORTGAGE B&O DEDUCTION TO COMMUNITY BANKS

NEW SECTION. **Sec. 101.** A new section is added to chapter 82.04 RCW to read as follows:

(1) Amounts received as interest on loans originated by a person located in more than ten states, or an affiliate of such person, and primarily secured by first mortgages or trust deeds on nontransient residential properties are subject to tax under RCW 82.04.290(2)(a).

(2) For the purposes of this subsection, a person is located in a state if:

(a) The person or an affiliate of the person maintains a branch, office, or one or more employees or representatives in the state; and

(b) Such in-state presence allows borrowers or potential borrowers to contact the branch, office, employee, or representative concerning the acquiring, negotiating, renegotiating, or restructuring of, or making payments on, mortgages issued or to be issued by the person or an affiliate of the person.

(3) For purposes of this section:

(a) "Affiliate" means a person is affiliated with another person, and "affiliated" has the same meaning as in RCW 82.04.645; and

(b) "Interest" has the same meaning as in RCW 82.04.4292 and also includes servicing fees described in RCW 82.04.4292(4).

Sec. 102. RCW 82.04.4292 and 2010 1st sp.s. c 23 s 301 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties.

(2) Interest deductible under this section includes the portion of fees charged to borrowers, including points and loan origination fees, that is recognized over the life of the loan as an adjustment to yield in the taxpayer's books and records according to generally accepted accounting principles.

(3) Subsections (1) and (2) of this section notwithstanding, the following is a nonexclusive list of items that are not deductible under this section:

(a) Fees for specific services such as: Document preparation fees; finder fees; brokerage fees; title examination fees; fees for credit checks; notary fees; loan application fees; interest lock-in fees if the loan is not made; servicing fees; and similar fees or amounts;

(b) Fees received in consideration for an agreement to make funds available for a specific period of time at specified terms, commonly referred to as commitment fees;

(c) Any other fees, or portion of a fee, that is not recognized over the life of the loan as an adjustment to yield in the taxpayer's books and records according to generally accepted accounting principles;

(d) Gains on the sale of valuable rights such as service release premiums, which are amounts received when servicing rights are sold; and

(e) Gains on the sale of loans, except deferred loan origination fees and points deductible under subsection (2) of this section, are not to be considered part of the proceeds of sale of the loan.

(4) Notwithstanding subsection (3) of this section, in computing tax there may be deducted from the measure of tax by those engaged in banking, loan, security, or other financial businesses, amounts received for servicing loans primarily secured by first mortgages or trust deeds on nontransient residential properties, including such loans that secure mortgage-backed or mortgage-related securities, but only if:

(a)(i) The loans were originated by the person claiming a deduction under this subsection (4) and that person either sold the loans on the secondary market or securitized the loans and sold the securities on the secondary market; or

(ii)(A) The person claiming a deduction under this subsection (4) acquired the loans from the person that originated the loans through a merger or acquisition of substantially all of the assets of the person who originated the loans, or the person claiming a deduction under this subsection (4) is affiliated with the person that originated the loans. For purposes of this subsection, "affiliated" means under common control. "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(B) Either the person who originated the loans or the person claiming a deduction under this subsection (4) sold the loans on the secondary market or securitized the loans and sold the securities on the secondary market; and

(b) The amounts received for servicing the loans are determined by a percentage of the interest paid by the borrower and are only received if the borrower makes interest payments.

(5) The deductions provided in this section do not apply to persons subject to tax under section 101 of this act.

(6) By June 30, 2015, the joint legislative audit and review committee must review the deductions provided in this section in accordance with RCW 43.136.055 and make a recommendation as to whether the deductions should be continued without modification, modified, or terminated immediately.

PART II
EXTENDING THE B&O TAX EXEMPTION FOR FRUIT, VEGETABLE, DAIRY, AND SEAFOOD BUSINESSES

Sec. 201. RCW 82.04.4266 and 2011 c 2 s 202 (Initiative Measure No. 1107) are each amended 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 fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) 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. 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) A person claiming the exemption provided in this section must file a complete annual survey with the department under RCW 82.32.585.

(3) This section expires July 1, ((~~2012~~)) 2015.

Sec. 202. RCW 82.04.4268 and 2010 c 114 s 112 are each amended 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 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) A person claiming the exemption provided in this section must file a complete annual survey with the department under RCW 82.32.585.

(4) This section expires July 1, ((~~2012~~)) 2015.

Sec. 203. RCW 82.04.4269 and 2010 c 114 s 113 are each amended 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) A person claiming the exemption provided in this section must file a complete annual survey with the department under RCW 82.32.585.

(3) This section expires July 1, ((~~2012~~)) 2015.

Sec. 204. RCW 82.04.260 and 2011 c 2 s 203 (Initiative Measure No. 1107) are each 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 by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, ((~~2012~~)) 2015, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, 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 is 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;

(c) Beginning July 1, ((~~2012~~)) 2015, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products 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 is 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;

(d) Beginning July 1, ((~~2012~~)) 2015, 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 is 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) 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 is equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Wood biomass fuel as defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of 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 is 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 is 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 is 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 is 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 is 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 is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are 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 is 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 must 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 producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is 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 is 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.

(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, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007; and

(ii) 0.2904 percent beginning July 1, 2007.

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection (11) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross

proceeds of sales 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 0.2904 percent.

(c) For the purposes of this subsection (11), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection (11) must file a complete annual report with the department under RCW 82.32.534.

(e) This subsection (11) does not apply on and after July 1, 2024.

(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 is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, 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 is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, 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 is 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) Until July 1, 2024, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (12)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other

kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (12)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "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; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection (12) must file a complete annual survey with the department under RCW 82.32.585.

(13) 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 is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(14)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.2904 percent.

(b) A person reporting under the tax rate provided in this subsection (14) must file a complete annual report with the department under RCW 82.32.534.

PART III
AMENDING THE SALES AND USE TAX EXEMPTION FOR CERTAIN EQUIPMENT USED IN COMPUTER DATA CENTERS

NEW SECTION. **Sec. 301.** (1) It is the legislature's intent to encourage immediate investments in technology facilities that can provide an economic stimulus, sustain long-term jobs that provide living wages, and help build the digital infrastructure that can enable the state to be competitive for additional technology investment and jobs.

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

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

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

Sec. 302. RCW 82.08.986 and 2010 1st sp.s. c 23 s 1601 are each amended to read as follows:

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

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

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

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

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

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

based only on the space occupied by the ((~~lessee~~)) qualifying tenant in the eligible computer data center.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) "Affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

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

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

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

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

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

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

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

(C) For which the commencement of construction occurs:

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

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

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

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

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

((~~(e)~~)) (f) "Eligible server equipment" means:

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

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

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

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

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

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

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

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

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

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

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

~~(h) "Server equipment" means the server chassis and all computer hardware contained within the server chassis. "Server equipment" also includes computer software necessary to operate the server. "Server equipment" does not include the racks upon which the server chassis is installed, and computer peripherals such as keyboards, monitors, printers, mice, and other devices that work outside of the computer.~~))

(h) "Qualifying tenant" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that leases space from a qualifying business within an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state. The term also does not include a lessee of space in an eligible computer data center under (d)(i)(C)(I) of this subsection (6), if the lessee and lessor are affiliated and:

(i) That space will be used by the lessee to house server equipment that replaces server equipment previously installed and operated in that eligible computer data center by the lessor or another person affiliated with the lessee; or

(ii) Prior to the effective date of this section, the primary use of the server equipment installed in that eligible computer data center was to provide electronic data storage and data management services for the business purposes of either the lessor, persons affiliated with the lessor, or both.

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

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

Sec. 303. RCW 82.08.986 and 2010 1st sp.s. c 23 s 1601 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) "Affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

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

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

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

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

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

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

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

(C) For which the commencement of construction occurs:

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

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

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

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

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

(((~~(e)~~))) (f) "Eligible server equipment" means:

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

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

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

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

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

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

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

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

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

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

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

~~(h) "Server equipment" means the server chassis and all computer hardware contained within the server chassis. "Server equipment" also includes computer software necessary to operate the server. "Server equipment" does not include the racks upon which the server chassis is installed, and computer peripherals such as keyboards, monitors, printers, mice, and other devices that work outside of the computer.~~))

(h) "Qualifying tenant" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that leases space from a qualifying business within an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state. The term also does not include a lessee of space in an eligible computer data center under (d)(i)(C)(I) of this subsection (6), if the lessee and lessor are affiliated and:

(i) That space will be used by the lessee to house server equipment that replaces server equipment previously installed and operated in that eligible computer data center by the lessor or another person affiliated with the lessee; or

(ii) Prior to the effective date of this section, the primary use of the server equipment installed in that eligible computer data center was to provide

electronic data storage and data management services for the business purposes of either the lessor, persons affiliated with the lessor, or both.

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

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

Sec. 304. RCW 82.12.986 and 2010 1st sp.s. c 23 s 1602 are each amended to read as follows:

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

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

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

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

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

(b) If a person has received the benefit of the exemption under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes exempted under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this subsection (3)(b) until paid in full. A person is not required to repay taxes under this subsection with respect to property and services for which the person is required to repay taxes under RCW 82.08.986(5).

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

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

PART IV
EXEMPTING CRAFT DISTILLERIES FROM CERTAIN LICENSE ISSUANCE FEES

Sec. 401. RCW 66.24.630 and 2012 c 2 s 103 (Initiative Measure No. 1183) are each amended to read as follows:

(1) There is a spirits retail license to: Sell spirits in original containers to consumers for consumption off the licensed premises and to permit holders; sell spirits in original containers to retailers licensed to sell spirits for consumption on the premises, for resale at their licensed premises according to the terms of their licenses, although no single sale may exceed twenty-four liters, unless the sale is by a licensee that was a contract liquor store manager of a contract liquor store at the location of its spirits retail licensed premises from which it makes such sales; and export spirits.

(2) For the purposes of this title, a spirits retail license is a retail license, and a sale by a spirits retailer is a retail sale only if not for resale. Nothing in this title authorizes sales by on-sale licensees to other retail licensees. The board must establish by rule an obligation of on-sale spirits retailers to:

(a) Maintain a schedule by stock-keeping unit of all their purchases of spirits from spirits retail licensees, indicating the identity of the seller and the quantities purchased; and

(b) Provide, not more frequently than quarterly, a report for each scheduled item containing the identity of the purchasing on-premise licensee and the quantities of that scheduled item purchased since any preceding report to:

(i) A distributor authorized by the distiller to distribute a scheduled item in the on-sale licensee's geographic area; or

(ii) A distiller acting as distributor of the scheduled item in the area.

(3)(a) Except as otherwise provided in (c) of this subsection ((~~(c) of this section~~)), the board may issue spirits retail licenses only for premises comprising at least ten thousand square feet of fully enclosed retail space within a single structure, including storerooms and other interior auxiliary areas but excluding covered or fenced exterior areas, whether or not attached to the structure, and only to applicants that the board determines will maintain systems for inventory management, employee training, employee supervision, and physical security of the product substantially as effective as those of stores currently operated by the board with respect to preventing sales to or pilferage by underage or inebriated persons.

(b) License issuances and renewals are subject to RCW 66.24.010 and the regulations promulgated thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent issuance of local liquor licenses. However, existing grocery premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of processing applications for spirits retail licenses.

(c) The board may not deny a spirits retail license to an otherwise qualified contract liquor store at its contract location or to the holder of former state liquor store operating rights sold at auction under RCW 66.24.620 on the grounds of location, nature, or size of the premises to be licensed. The board ((~~shall~~)) may not deny a spirits retail license to applicants that are not contract liquor stores or

operating rights holders on the grounds of the size of the premises to be licensed, if such applicant is otherwise qualified and the board determines that:

(i) There is no retail spirits license holder in the trade area that the applicant proposes to serve;

(ii) The applicant meets, or upon licensure will meet, the operational requirements established by the board by rule; and

(iii) The licensee has not committed more than one public safety violation within the three years preceding application.

(d) A retailer authorized to sell spirits for consumption on or off the licensed premises may accept delivery of spirits at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which the retailer may deliver to its own licensed premises and, pursuant to sales permitted under subsection (1) of this section:

(i) To other retailer premises licensed to sell spirits for consumption on the licensed premises;

(ii) To other registered facilities; or

(iii) To lawful purchasers outside the state. The facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers, including at least one retailer licensed to sell spirits.

(4)(a) Except as otherwise provided in (b) of this subsection, each spirits retail licensee must pay to the board, for deposit into the liquor revolving fund, a license issuance fee equivalent to seventeen percent of all spirits sales revenues under the license, exclusive of taxes collected by the licensee and of sales of items on which a license fee payable under this section has otherwise been incurred. The board must establish rules setting forth the timing of such payments and reporting of sales dollar volume by the licensee, with payments required quarterly in arrears. The first payment is due October 1, 2012.

(b) This subsection (4) does not apply to craft distilleries.

(5) In addition to the payment required under subsection (4) of this section, each licensee must pay an annual license renewal fee of one hundred sixty-six dollars. The board must periodically review and adjust the renewal fee as may be required to maintain it as comparable to annual license renewal fees for licenses to sell beer and wine not for consumption on the licensed premises. If required by law at the time, any increase of the annual renewal fee becomes effective only upon ratification by the legislature.

(6) As a condition to receiving and renewing a retail spirits license the licensee must provide training as prescribed by the board by rule for individuals who sell spirits or who manage others who sell spirits regarding compliance with laws and regulations regarding sale of spirits, including without limitation the prohibitions against sale of spirits to individuals who are underage or visibly intoxicated. The training must be provided before the individual first engages in the sale of spirits and must be renewed at least every five years. The licensee must maintain records documenting the nature and frequency of the training provided. An employee training program is presumptively sufficient if it incorporates a "responsible vendor program" promulgated by the board.

(7) The maximum penalties prescribed by the board in WAC 314-29-020 through 314-29-040 relating to fines and suspensions are doubled for violations relating to the sale of spirits by retail spirits licensees.

(8)(a) The board must promulgate regulations concerning the adoption and administration of a compliance training program for spirits retail licensees, to be known as a "responsible vendor program," to reduce underage drinking, encourage licensees to adopt specific best practices to prevent sales to minors, and provide licensees with an incentive to give their employees ongoing training in responsible alcohol sales and service.

(b) Licensees who join the responsible vendor program under this section and maintain all of the program's requirements are not subject to the doubling of penalties provided in this section for a single violation in any period of twelve calendar months.

(c) The responsible vendor program must be free, voluntary, and self-monitoring.

(d) To participate in the responsible vendor program, licensees must submit an application form to the board. If the application establishes that the licensee meets the qualifications to join the program, the board must send the licensee a membership certificate.

(e) A licensee participating in the responsible vendor program must at a minimum:

(i) Provide ongoing training to employees;

(ii) Accept only certain forms of identification for alcohol sales;

(iii) Adopt policies on alcohol sales and checking identification;

(iv) Post specific signs in the business; and

(v) Keep records verifying compliance with the program's requirements.

PART V
CLARIFYING THE DEFINITION OF LEASEHOLD INTEREST

Sec. 501. RCW 82.29A.020 and 1999 c 220 s 2 are each amended to read as follows:

((~~As used in this chapter the following terms shall be defined as follows,~~)) The definitions in this section apply throughout this chapter unless the context ((~~otherwise~~)) requires((~~:~~)) otherwise.

(1) "Leasehold interest" ((~~shall~~)) means an interest in publicly owned real or personal property which exists by virtue of any lease, permit, license, or any other agreement, written or verbal, between the public owner of the property and a person who would not be exempt from property taxes if that person owned the property in fee, granting possession and use, to a degree less than fee simple ownership((~~: PROVIDED, That~~)). However, no interest in personal property (excluding land or buildings) which is owned by the United States, whether or not as trustee, or by any foreign government ((~~shall~~)) may constitute a leasehold interest hereunder when the right to use such property is granted pursuant to a contract solely for the manufacture or production of articles for sale to the United States or any foreign government. The term "leasehold interest" ((~~shall~~)) includes the rights of use or occupancy by others of property which is owned in fee or held in trust by a public corporation, commission, or authority created under RCW 35.21.730 or 35.21.660 if the property is listed on or is within a district listed on any federal or state register of historical sites. The term "leasehold interest" ((~~shall~~)) does not include road or utility easements, rights of access, occupancy, or use granted solely for the purpose of removing materials

or products purchased from a public owner or the lessee of a public owner, or rights of access, occupancy, or use granted solely for the purpose of natural energy resource exploration. "Leasehold interest" does not include the preferential use of publicly owned cargo cranes and docks and associated areas used in the loading and discharging of cargo located at a port district marine facility. "Preferential use" means that publicly owned real or personal property is used by a private party under a written agreement with the public owner, but the public owner or any third party maintains a right to use the property when not being used by the private party.

(2)(a) "Taxable rent" ((~~shall~~)) means contract rent as defined in ((~~subsection (a)~~)) (c) of this subsection in all cases where the lease or agreement has been established or renegotiated through competitive bidding, or negotiated or renegotiated in accordance with statutory requirements regarding the rent payable, or negotiated or renegotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor((~~: PROVIDED, That~~)). However, after January 1, 1986, with respect to any lease which has been in effect for ten years or more without renegotiation, taxable rent may be established by procedures set forth in ((~~subsection (b)~~)) (g) of this subsection. All other leasehold interests ((~~shall be~~)) are subject to the determination of taxable rent under the terms of ((~~subsection (b)~~)) (g) of this subsection.

(b) For purposes of determining leasehold excise tax on any lands on the Hanford reservation subleased to a private or public entity by the department of ecology, taxable rent ((~~shall~~)) includes only the annual cash rental payment made by such entity to the department of ecology as specifically referred to as rent in the sublease agreement between the parties and ((~~shall~~)) does not include any other fees, assessments, or charges imposed on or collected by such entity irrespective of whether the private or public entity pays or collects such other fees, assessments, or charges as specified in the sublease agreement.

(((~~(a)~~))) (c) "Contract rent" ((~~shall~~)) means the amount of consideration due as payment for a leasehold interest, including: The total of cash payments made to the lessor or to another party for the benefit of the lessor according to the requirements of the lease or agreement, including any rents paid by a sublessee; expenditures for the protection of the lessor's interest when required by the terms of the lease or agreement; and expenditures for improvements to the property to the extent that such improvements become the property of the lessor. Where the consideration conveyed for the leasehold interest is made in combination with payment for concession or other rights granted by the lessor, only that portion of such payment which represents consideration for the leasehold interest ((~~shall be~~)) is part of contract rent.

(d) "Contract rent" ((~~shall~~)) does not include: (i) Expenditures made by the lessee, which under the terms of the lease or agreement, are to be reimbursed by the lessor to the lessee or expenditures for improvements and protection made pursuant to a lease or an agreement which requires that the use of the improved property be open to the general public and that no profit will inure to the lessee from the lease; (ii) expenditures made by the lessee for the replacement or repair of facilities due to fire or other casualty including payments for insurance to provide reimbursement for losses or payments to a public or private entity for protection of such property from damage or loss or for alterations or additions

made necessary by an action of government taken after the date of the execution of the lease or agreement; (iii) improvements added to publicly owned property by a sublessee under an agreement executed prior to January 1, 1976, which have been taxed as personal property of the sublessee prior to January 1, 1976, or improvements made by a sublessee of the same lessee under a similar agreement executed prior to January 1, 1976, and such improvements ((~~shall be~~)) are taxable to the sublessee as personal property; (iv) improvements added to publicly owned property if such improvements are being taxed as personal property to any person.

(e) Any prepaid contract rent ((~~shall be~~)) is considered to have been paid in the year due and not in the year actually paid with respect to prepayment for a period of more than one year. Expenditures for improvements with a useful life of more than one year which are included as part of contract rent ((~~shall~~)) must be treated as prepaid contract rent and prorated over the useful life of the improvement or the remaining term of the lease or agreement if the useful life is in excess of the remaining term of the lease or agreement. Rent prepaid prior to January 1, 1976, ((~~shall~~)) must be prorated from the date of prepayment.

(f) With respect to a "product lease", the value ((~~shall be~~)) is that value determined at the time of sale under terms of the lease.

(((~~(b)~~))) (g) If it ((~~shall be~~)) is determined by the department of revenue, upon examination of a lessee's accounts or those of a lessor of publicly owned property, that a lessee is occupying or using publicly owned property in such a manner as to create a leasehold interest and that such leasehold interest has not been established through competitive bidding, or negotiated in accordance with statutory requirements regarding the rent payable, or negotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor, the department may establish a taxable rent computation for use in determining the tax payable under authority granted in this chapter based upon the following criteria: (i) Consideration ((~~shall~~)) must be given to rental being paid to other lessors by lessees of similar property for similar purposes over similar periods of time; (ii) consideration ((~~shall~~)) must be given to what would be considered a fair rate of return on the market value of the property leased less reasonable deductions for any restrictions on use, special operating requirements or provisions for concurrent use by the lessor, another person or the general public.

(3) "Product lease" as used in this chapter ((~~shall~~)) means a lease of property for use in the production of agricultural or marine products to the extent that such lease provides for the contract rent to be paid by the delivery of a stated percentage of the production of such agricultural or marine products to the credit of the lessor or the payment to the lessor of a stated percentage of the proceeds from the sale of such products.

(4) "Renegotiated" means a change in the lease agreement which changes the agreed time of possession, restrictions on use, the rate of the cash rental or of any other consideration payable by the lessee to or for the benefit of the lessor, other than any such change required by the terms of the lease or agreement. In addition "renegotiated" ((~~shall~~)) means a continuation of possession by the lessee beyond the date when, under the terms of the lease agreement, the lessee had the right to vacate the premises without any further liability to the lessor.

(5) "City" means any city or town.

(6) "Products" includes natural resource products such as cut or picked evergreen foliage, Cascara bark, wild edible mushrooms, native ornamental trees and shrubs, ore and minerals, natural gas, geothermal water and steam, and forage removed through the grazing of livestock.

PART VI
NEWSPAPER BUSINESS AND OCCUPATION TAX

Sec. 601. RCW 82.04.214 and 2008 c 273 s 1 are each amended to read as follows:

(1)(((~~(a) Until June 30, 2011,~~)) "Newspaper" means:

((~~(i)~~)) (a) A publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind, including any supplement of a printed newspaper; and

((~~(ii)~~)) (b) An electronic version of a printed newspaper that:

((~~(A)~~)) (i) Shares content with the printed newspaper; and

((~~(B)~~)) (ii) Is prominently identified by the same name as the printed newspaper or otherwise conspicuously indicates that it is a complement to the printed newspaper.

((~~(b)~~)) (2) For purposes of this section, "supplement" means a printed publication, including a magazine or advertising section, that is:

((~~(i)~~)) (a) Labeled and identified as part of the printed newspaper; and

((~~(ii)~~)) (b) Circulated or distributed:

((~~(A)~~)) (i) As an insert or attachment to the printed newspaper; or

((~~(B)~~)) (ii) Separate and apart from the printed newspaper so long as the distribution is within the general circulation area of the newspaper.

((~~(2) Beginning July 1, 2011, "newspaper" means a publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind, including any supplement of a printed newspaper as defined in subsection (1)(b) of this section.~~))

Sec. 602. RCW 82.04.260 and 2011 c 2 s 203 (Initiative Measure No. 1107) are each 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 by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2012, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, 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 is 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;

(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 by-products 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 is 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;

(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 is 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) 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 is equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Wood biomass fuel as defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of 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 is 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 is 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 is 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 is 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 is 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 is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are 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 is 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 must 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 producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is 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 is 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.

(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, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007; and

(ii) 0.2904 percent beginning July 1, 2007.

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection (11) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales 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 0.2904 percent.

(c) For the purposes of this subsection (11), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection (11) must file a complete annual report with the department under RCW 82.32.534.

(e) This subsection (11) does not apply on and after July 1, 2024.

(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 is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, 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 is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, 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 is 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) Until July 1, 2024, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (12)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (12)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "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; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection (12) must file a complete annual survey with the department under RCW 82.32.585.

(13) 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 is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(14)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of ((~~0.2904~~)) 0.365 percent through June 30, 2013, and beginning July 1, 2013, multiplied by the rate of 0.35 percent.

(b) A person reporting under the tax rate provided in this subsection (14) must file a complete annual report with the department under RCW 82.32.534.

PART VII
MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 701.** This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections.

NEW SECTION. **Sec. 702.** 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. 703.** (1) Parts I, II, and V through VII of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2012.

(2) Section 302 of this act does not take effect if the contingency in subsection (3) of this section occurs.

(3) Section 303 of this act takes effect if Substitute House Bill No. 2530 or any other legislation repealing RCW 82.32.534 is enacted during the 2012 1st special session and signed into law.

(4) Parts III and IV 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.

NEW SECTION. **Sec. 704.** Part VI of this act expires July 1, 2015.

Passed by the Senate April 11, 2012.
Passed by the House April 11, 2012.
Approved by the Governor May 2, 2012.
Filed in Office of Secretary of State May 2, 2012.

CHAPTER 7

[Third Engrossed Substitute House Bill 2127]

SUPPLEMENTAL OPERATING BUDGET

AN ACT Relating to fiscal matters; amending RCW 28B.15.067, 38.52.540, 41.06.560, 43.07.129, 43.30.720, 43.88.110, 74.48.090, 76.04.610, 77.12.201, 77.12.203, 79.22.010, 79.22.040, 79.64.100, 79.105.150, 79.105.240, 79A.25.200, 86.26.007, and 90.48.390; amending 2012 c 86 (ESHB 2190) (uncodified); amending 2011 2nd sp.s. c 9 ss 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 125, 128, 129, 130, 131,

126, 127, 132, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 401, 402, 501, 502, 503, 504, 505, 507, 508, 509, 510, 511, 513, 514, 515, 601, 602, 603, 604, 605, 606, 607, 608, 609, 612, 613, 614, 615, 616, 617, 701, 702, and 801 (uncodified); amending 2011 1st sp.s. c 50 ss 103, 104, 106, 105, 108, 112, 115, 117, 120, 124, 128, 132, 133, 137, 136, 142, 147, 151, 149, 214, 516, 616, 715, 801, 802, 803, 910, 920, 921, and 922 (uncodified); amending 2010 c 23 s 205 (uncodified); reenacting and amending RCW 2.68.020, 70.105D.070, and 79.64.040; adding new sections to 2011 1st sp.s. c 50 (uncodified); repealing 2011 2nd sp.s. c 9 ss 610, 611, 705, 706, 707, and 708 (uncodified); repealing 2011 1st sp.s. c 50 ss 709 and 710 (uncodified); making appropriations; and declaring an emergency.

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

PART I
GENERAL GOVERNMENT

Sec. 101. 2011 2nd sp.s. c 9 s 101 (uncodified) is amended to read as follows:

FOR THE HOUSE OF REPRESENTATIVES

General Fund—State Appropriation (FY 2012) . . . . . ((~~$29,934,000~~))
$29,734,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$30,465,000~~))
$28,205,000

Motor Vehicle Account—State Appropriation . . . . . ((~~$1,316,000~~))
$1,491,000

TOTAL APPROPRIATION . . . . . ((~~$61,715,000~~))
$59,430,000

The appropriations in this section are subject to the following conditions and limitations: $50,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for a joint select committee on junior taxing districts, municipal corporations, and local government finance. The joint select committee will be composed of two members from each caucus from the house and from the senate. The joint select committee shall review junior taxing districts and municipal corporations for the purpose of evaluating their provided services and making recommendations on the appropriateness of consolidating services into a general purpose local government. The joint select committee shall also examine new revenue options for local governments. The joint select committee shall also review the impact of the passage of Initiative Measure No. 1183 on public safety needs, and provide a sustainable plan for the use and disbursement of excess liquor revenues. In completing its review and recommendations, the joint select committee shall seek pertinent information and advice from: (a) Organizations representing counties, cities, and junior taxing districts; (b) counties, cities, and junior taxing districts; (c) the department of revenue; and (d) the state auditor.

Sec. 102. 2011 2nd sp.s. c 9 s 102 (uncodified) is amended to read as follows:

FOR THE SENATE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$21,770,000~~))
$21,455,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$23,864,000~~))
$21,791,000
Motor Vehicle Account—State Appropriation . . . . . ((~~$1,400,000~~))
$1,421,000
TOTAL APPROPRIATION . . . . . ((~~$47,034,000~~))
$44,667,000

The appropriations in this section are subject to the following conditions and limitations: $50,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for a joint select committee on junior taxing districts, municipal corporations, and local government finance. The joint select committee will be composed of two members from each caucus from the house and from the senate. The joint select committee shall review junior taxing districts and municipal corporations for the purpose of evaluating their provided services and making recommendations on the appropriateness of consolidating services into a general purpose local government. The joint select committee shall also examine new revenue options for local governments. The joint select committee shall also review the impact of the passage of Initiative Measure No. 1183 on public safety needs, and provide a sustainable plan for the use and disbursement of excess liquor revenues. In completing its review and recommendations, the joint select committee shall seek pertinent information and advice from: (a) Organizations representing counties, cities, and junior taxing districts; (b) counties, cities, and junior taxing districts; (c) the department of revenue; and (d) the state auditor.

Sec. 103. 2011 1st sp.s. c 50 s 103 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE
General Fund—State Appropriation (FY 2012) . . . . . ((~~$2,680,000~~))
$2,589,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$2,741,000~~))
$2,531,000
Medical Aid Account—State Appropriation $85,000
Accident Account—State Appropriation $85,000
TOTAL APPROPRIATION . . . . . ((~~$5,591,000~~))
$5,290,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Notwithstanding the provisions of this section, the joint legislative audit and review committee may adjust the due dates for projects included on the committee's 2011-13 work plan as necessary to efficiently manage workload.

(2) Within the amounts appropriated in this section, the committee shall conduct a review of the state's workplace safety and health program. The review shall examine workplace safety inspection, enforcement, training, and outreach efforts compared to other states and federal programs; analyze workplace injury and illness rates and trends in Washington; identify factors that may influence workplace safety and health; and identify practices that may improve workplace safety and health and/or impact insurance rates.

(3) Within the amounts appropriated in this section, the committee shall conduct a review of marketing and vendor expenditures and incentive payment programs at the state lottery commission to identify cost savings and efficiencies to maximize contributions to beneficiaries under this act. This review shall include examination of the following:

(a) An analysis of marketing expenses and the impact on ticket sales; the impact to sales of tickets from the change in lottery beneficiaries; the competitive contracting processes for marketing services and vendors and comparison to other states; identification of whether there are duplicative or unproductive marketing activities; and identification of whether savings may occur from changing vendors.

(b) A description of how the employee incentive payment program at the state lottery commission operates, and comparison to best practices for outcome-based performance payments.

(4) $85,000 of the medical aid account—state appropriation and $85,000 of the accident account—state appropriation are provided solely for the purposes of House Bill No. 2123 (workers' compensation). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(5) The joint legislative audit and review committee shall review and provide an update on the extent to which the Puget Sound partnership's 2012 action agenda, state of the sound report, and other activities implement the recommendations of the joint legislative audit and review committee's 2011 audit entitled "Processes required to measure Puget Sound restoration are not yet in place." The update must be provided to the relevant policy committees of the senate and house of representatives by January 1, 2013.

(6) The joint legislative audit and review committee will assess the costs of the department of fish and wildlife to produce trout to achieve the department's desired freshwater stocking objectives and compare these costs to the costs of the alternatives for producing trout such as contracting for services. As part of its assessment, the committee will consider the following:

(a) The total costs to the department for producing trout at department trout production facilities, by category of trout production, to achieve the department's desired freshwater stocking objectives;

(b) The availability of alternative approaches to trout production, including opportunities to contract with registered aquatic farmers, and the costs of these alternative approaches; and

(c) A review of the experience of other states in contracting or other alternative approaches to trout production.

(d) The committee will complete its assessment and report to the legislature by December 1, 2012.

Sec. 104. 2011 1st sp.s. c 50 s 104 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$2,027,000~~)) $2,025,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$2,193,000~~)) $1,720,000

TOTAL APPROPRIATION . . . . . ((~~$4,220,000~~))
$3,745,000

Sec. 105. 2011 1st sp.s. c 50 s 106 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$8,016,000~~))
$8,013,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$7,911,000~~))
$7,666,000
TOTAL APPROPRIATION . . . . . ((~~$15,927,000~~))
$15,679,000

Sec. 106. 2011 1st sp.s. c 50 s 105 (uncodified) is amended to read as follows:

FOR THE OFFICE OF THE STATE ACTUARY

((~~General Fund—State Appropriation (FY 2012). . . . . $24,000~~
~~General Fund—State Appropriation (FY 2013) . . . . . $24,000~~))
Department of Retirement Systems Expense
Account—State Appropriation . . . . . ((~~$3,344,000~~))
$3,323,000
((~~TOTAL APPROPRIATION . . . . . $3,392,000~~))

The appropriations in this section are subject to the following conditions and limitations: $75,000 of the department of retirement services account—state appropriation is for the state actuary to study the issue of merging the law enforcement officers' and fire fighters' retirement system plans 1 and 2 into a single retirement plan. The department of retirement systems shall assist the state actuary by providing such information and advice as the state actuary requests, and the state actuary may contract for services as needed to conduct the study. The results of the study shall be reported to the ways and means committees of the house of representatives and the senate by December 15, 2011.

(1) Among the issues related to the merger of the law enforcement officers' and fire fighters' retirement system plans 1 and 2 into a single retirement plan that shall be examined:

(a) Changes to the assets available to pay for the benefits of each plan before and after a merger based on a range of possible economic and demographic experience; and

(b) Changes to the projected contributions that might be required of members, employers, and the state based on a range of possible economic and demographic experience and a variety of funding policies, including both continued application of current funding policy to the benefit obligations of each plan, and application of the law enforcement officers' and fire fighters' retirement system plan 2 funding policies to the combined benefits of both plans;

(2) The state actuary shall solicit the input of the law enforcement officers' and fire fighters' retirement system plan 2 retirement board and organizations representing members and retirees of the law enforcement officers' and fire fighters' retirement system plan 1 on the issue of the merger of the two plans, and

include representative submissions of the input of the organizations along with the report.

Sec. 107. 2011 2nd sp.s. c 9 s 103 (uncodified) is amended to read as follows:

FOR THE STATUTE LAW COMMITTEE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$4,248,000~~)) $4,245,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$4,689,000~~)) $4,523,000

TOTAL APPROPRIATION . . . . . ((~~$8,937,000~~)) $8,768,000

Sec. 108. 2011 1st sp.s. c 50 s 108 (uncodified) is amended to read as follows:

FOR THE REDISTRICTING COMMISSION

General Fund—State Appropriation (FY 2012) $1,627,000

General Fund—State Appropriation (FY 2013) $154,000

TOTAL APPROPRIATION $1,781,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $443,000 of the general fund--state appropriation for fiscal year 2012 is provided solely for the support of legislative redistricting efforts. The commission shall enter into an interagency agreement with the house of representatives and the senate for the expenditure of these funds.

(2) The entire general fund—state appropriation for fiscal year 2013 is provided solely for the payment of expenses associated with the cessation of the commission's operations. The secretary of the senate and chief clerk of the house of representatives may jointly authorize the expenditure of these funds.

NEW SECTION. **Sec. 109.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

FOR THE OFFICE OF LEGISLATIVE SUPPORT SERVICES

General Fund—State Appropriation (FY 2013) $3,016,000

NEW SECTION. **Sec. 110.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

LEGISLATIVE AGENCIES

In order to achieve operating efficiencies within the financial resources available to the legislative branch, the executive rules committee of the house of representatives and the facilities and operations committee of the senate by joint action may transfer funds among the house of representatives, senate, joint legislative audit and review committee, legislative evaluation and accountability program committee, legislative [joint] transportation committee, office of the state actuary, joint legislative systems committee, statute law committee, office of legislative support services, and redistricting commission.

Sec. 111. 2011 2nd sp.s. c 9 s 104 (uncodified) is amended to read as follows:

FOR THE SUPREME COURT
General Fund—State Appropriation (FY 2012) . . . . . ((~~$6,724,000~~))
$6,757,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$6,738,000~~))
$6,561,000
TOTAL APPROPRIATION . . . . . ((~~$13,462,000~~))
$13,318,000

Sec. 112. 2011 2nd sp.s. c 9 s 105 (uncodified) is amended to read as follows:

FOR THE LAW LIBRARY
General Fund—State Appropriation (FY 2012) . . . . . ((~~$1,506,000~~))
$1,504,000
((~~General Fund—State Appropriation (FY 2013). . . . . $1,466,000~~))
Judicial Information System Account—State
Appropriation. $1,500,000
TOTAL APPROPRIATION . . . . . ((~~$2,972,000~~))
$3,004,000

The appropriations in this section are subject to the following conditions and limitations: $50,000 of the judicial information system account—state appropriation is provided solely to evaluate the state law library and assess its operational structure to determine the most effective delivery model for providing library services.

Sec. 113. 2011 1st sp.s. c 50 s 112 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON JUDICIAL CONDUCT
General Fund—State Appropriation (FY 2012) . . . . . ((~~$1,057,000~~))
$1,053,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$991,000~~))
$975,000
TOTAL APPROPRIATION . . . . . ((~~$2,048,000~~))
$2,028,000

Sec. 114. 2011 2nd sp.s. c 9 s 106 (uncodified) is amended to read as follows:

FOR THE COURT OF APPEALS
General Fund—State Appropriation (FY 2012) . . . . . ((~~$15,285,000~~))
$15,275,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$15,290,000~~))
$15,168,000
TOTAL APPROPRIATION . . . . . ((~~$30,575,000~~))
$30,443,000

Sec. 115. 2011 2nd sp.s. c 9 s 107 (uncodified) is amended to read as follows:

FOR THE ADMINISTRATOR FOR THE COURTS
General Fund—State Appropriation (FY 2012) . . . . . ((~~$50,692,000~~))
$50,725,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$50,235,000~~))
$48,429,000
General Fund—Federal Appropriation $2,532,000
General Fund—Private/Local Appropriation $390,000
Judicial Information Systems Account—State
Appropriation . . . . . ((~~$42,414,000~~))
$42,362,000
Judicial Stabilization Trust Account—State
Appropriation . . . . . ((~~$5,414,000~~))
$5,954,000
TOTAL APPROPRIATION . . . . . ((~~$151,677,000~~))
$150,392,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $1,800,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$1,800,000~~)) $1,399,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for school districts for 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 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. This funding includes amounts school districts may expend on the cost of serving petitions filed under RCW 28A.225.030 by certified mail or by personal service or for the performance of service of process for any hearing associated with RCW 28A.225.030.

(2)(a) $8,252,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$8,253,000~~)) $7,313,000 of the general fund—state appropriation for fiscal year 2013 are 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 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.

(b) Each fiscal year during the 2011-2013 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 and senate ways and means committees 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.

(3) The distributions made under this subsection 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.

(4) $265,000 of the general fund—state appropriation for fiscal year 2012 is provided solely for the office of public guardianship to provide guardianship services for low-income incapacitated persons.

(5) $1,178,000 of the judicial information systems account—state appropriation is provided solely for replacing computer equipment at state courts and state judicial agencies.

(6) No later than September 30, 2011, the judicial information systems committee shall provide a report to the legislature on the recommendations of the case management feasibility study, including plans for a replacement of the superior court management information system (SCOMIS) and plans for completing the data exchange core system component consistent with a complete data exchange standard. No later than December 31, 2011, the judicial information systems committee shall provide a report to the legislature on the status of the data exchange, the procurement process for a SCOMIS replacement, and a case management system that is designed to meet the requirements approved by the superior courts and county clerks of all thirty-nine counties. The legislature shall solicit input on both reports from judicial, legislative, and executive stakeholders.

(7) In order to gather better data on juveniles in the criminal justice system, the administrative office of the courts shall modify the judgment and sentence form for juvenile and adult sentences to include one or more check boxes indicating whether (a) the adult superior court had original jurisdiction for a defendant who was younger than eighteen years of age at the time the case was filed; (b) the case was originally filed in juvenile court but transferred to adult superior court jurisdiction; or (c) the case was originally filed in adult superior court or transferred to adult superior court but then returned to the juvenile court.

(8) $540,000 of the judicial stabilization trust account—state appropriation is provided solely for the office of public guardianship to continue guardianship services for those low-income incapacitated persons who were receiving services on June 30, 2012.

(9) The Washington association of juvenile court administrators and the juvenile rehabilitation administration, in consultation with the community juvenile accountability act advisory committee and the Washington state institute for public policy, shall analyze and review data elements available from the administrative office of the courts for possible integration into the evidence-based program quality assurance plans and processes. The administrative office of the courts, the Washington association of juvenile court administrators, and the juvenile rehabilitation administration shall provide information necessary to complete the review and analysis. The Washington association of juvenile court administrators and the juvenile rehabilitation administration shall report the findings of their review and analysis, as well as any recommendations, to the legislature by December 1, 2012.

Sec. 116. 2011 2nd sp.s. c 9 s 108 (uncodified) is amended to read as follows:

FOR THE OFFICE OF PUBLIC DEFENSE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$25,030,000~~))
$25,025,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$24,972,000~~))
$29,138,000
Judicial Stabilization Trust Account—State
Appropriation. . . . . ((~~$2,490,000~~))
$4,368,000
TOTAL APPROPRIATION . . . . . ((~~$52,492,000~~))
$58,531,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The amounts provided include funding for expert and investigative services in death penalty personal restraint petitions.

(2) By December 1, 2011, the office of public defense shall submit to the appropriate policy and fiscal committees of the legislature a proposal for office of public defense to assume the effective and efficient administration of defense services for indigent persons throughout the state who are involved in proceedings under chapter 71.09 RCW. In developing its proposal, the office of public defense should consult with interested stakeholders, including the King county public defender, the Washington defender association, the Washington association of criminal defense lawyers, the administrative office of the courts, the superior court judges association, the office of the attorney general, the King county prosecuting attorney, the Washington association of counties, and the department of social and health services. At a minimum, the proposal should identify:

(a) Procedures to control costs and require accountability, consistent with the state's obligation to ensure the right to counsel under both the United States Constitution and the Washington Constitution;

(b) Appropriate practice standards for trial-level defense of indigent persons involved in proceedings under chapter 71.09 RCW, an estimated number of attorneys statewide who are qualified to provide such representation, and reasonable compensation for such defense services;

(c) The total budget necessary to implement the proposal statewide for fiscal year 2013, including administrative support; and

(d) Possible savings to the state and counties that might result from implementing the proposal.

(3) $6,065,000 of the general fund—state appropriation for fiscal year 2013 is provided solely to implement Substitute Senate Bill No. 6493 (sexual predator commitment). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

Sec. 117. 2011 1st sp.s. c 50 s 115 (uncodified) is amended to read as follows:

FOR THE OFFICE OF CIVIL LEGAL AID

General Fund—State Appropriation (FY 2012) . . . . . ((~~$11,038,000~~))
$11,037,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$11,048,000~~))
$10,555,000
Judicial Stabilization Trust Account—State
Appropriation. . . . . ((~~$1,093,000~~))
$2,073,000

TOTAL APPROPRIATION . . . . . ((~~$23,179,000~~))
$23,665,000

The appropriations in this section are subject to the following conditions and limitations: An amount not to exceed $40,000 of the general fund—state appropriation for fiscal year 2012 and an amount not to exceed $40,000 of the general fund—state appropriation for fiscal year 2013 may be used to provide telephonic legal advice and assistance to otherwise eligible persons who are sixty years of age or older on matters authorized by RCW 2.53.030(2) (a) through (k) regardless of household income or asset level.

Sec. 118. 2011 2nd sp.s. c 9 s 109 (uncodified) is amended to read as follows:

FOR THE OFFICE OF THE GOVERNOR

General Fund—State Appropriation (FY 2012) . . . . . ((~~$5,311,000~~))
$5,102,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$5,292,000~~))
$5,247,000
Economic Development Strategic Reserve Account—State Appropriation. $1,500,000
TOTAL APPROPRIATION . . . . . ((~~$12,103,000~~))
$11,849,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $1,500,000 of the economic development strategic reserve account appropriation is provided solely for efforts to assist with currently active industrial recruitment efforts that will bring new jobs to the state or will retain headquarter locations of major companies currently housed in the state.

(2) ((~~$547,000~~)) $540,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$547,000~~)) $526,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the office of the education ombudsman.

Sec. 119. 2011 1st sp.s. c 50 s 117 (uncodified) is amended to read as follows:

FOR THE LIEUTENANT GOVERNOR

General Fund—State Appropriation (FY 2012) . . . . . ((~~$687,000~~))
$650,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$698,000~~))
$651,000
General Fund—Private/Local Appropriation $90,000
TOTAL APPROPRIATION . . . . . ((~~$1,475,000~~))
$1,391,000

Sec. 120. 2011 2nd sp.s. c 9 s 110 (uncodified) is amended to read as follows:

FOR THE PUBLIC DISCLOSURE COMMISSION

General Fund—State Appropriation (FY 2012) . . . . . ((~~$2,106,000~~))
$2,019,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$2,129,000~~))
$1,938,000
TOTAL APPROPRIATION . . . . . ((~~$4,235,000~~))
$3,957,000

The appropriations in this section are subject to the following conditions and limitations: $43,000 of the general fund—state appropriation for fiscal year 2012 and $82,000 of the general fund— state appropriation for fiscal year 2013 are provided solely for the implementation of Engrossed Substitute Senate Bill No. 5021 (election campaign disclosure).

Sec. 121. 2011 2nd sp.s. c 9 s 111 (uncodified) is amended to read as follows:

FOR THE SECRETARY OF STATE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$16,014,000~~))
$16,047,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$12,862,000~~))
$8,612,000
General Fund—Federal Appropriation . . . . . ((~~$7,338,000~~))
$7,326,000
Public Records Efficiency, Preservation, and Access
Account—State Appropriation . . . . . ((~~$7,950,000~~))
$7,074,000
Charitable Organization Education Account—State
Appropriation. . . . . ((~~$452,000~~))
$362,000
Local Government Archives Account—State
Appropriation. . . . . ((~~$10,557,000~~))
$8,516,000
Election Account—Federal Appropriation . . . . . ((~~$17,288,000~~))
$17,284,000
Washington State Heritage Center Account—State
Appropriation. . . . . ((~~$1,028,000~~))
$5,028,000
TOTAL APPROPRIATION . . . . . ((~~$73,489,000~~))
$70,249,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $3,898,000 of the general fund—state appropriation for fiscal year 2012 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)(a) $1,847,000 of the general fund—state appropriation for fiscal year 2012 and $1,926,000 of the general fund—state appropriation for fiscal year 2013 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 2011-2013 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 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.

(3) Any reductions to funding for the Washington talking book and Braille library may not exceed in proportion any reductions taken to the funding for the library as a whole.

Sec. 122. 2011 1st sp.s. c 50 s 120 (uncodified) is amended to read as follows:

FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$259,000~~))
$257,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$267,000~~))
$260,000

TOTAL APPROPRIATION . . . . . ((~~$526,000~~))
$517,000

The appropriations in this section are subject to the following conditions and limitations: The office shall assist the department of enterprise services 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 enterprise services shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

Sec. 123. 2011 2nd sp.s. c 9 s 112 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON ASIAN PACIFIC AMERICAN AFFAIRS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$236,000~~)) $234,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$219,000~~)) $212,000

TOTAL APPROPRIATION . . . . . ((~~$455,000~~)) $446,000

Sec. 124. 2011 2nd sp.s. c 9 s 113 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER

State Treasurer's Service Account—State Appropriation . . . . . ((~~$14,994,000~~)) $13,706,000

***Sec. 124 was vetoed. See message at end of chapter.**

Sec. 125. 2011 2nd sp.s. c 9 s 114 (uncodified) is amended to read as follows:

FOR THE STATE AUDITOR

State Auditing Services Revolving Account—State Appropriation. . . . . ((~~$10,293,000~~)) $9,209,000

Performance Audit of Government Account—State Appropriation. $1,461,000

TOTAL APPROPRIATION . . . . . ((~~$11,754,000~~)) $10,670,000

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) $1,461,000 of the performance audits of government account appropriation is 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) Within the amounts appropriated in this section, the state auditor shall continue to complete the annual audit of the state's comprehensive annual financial report and the annual federal single audit consistent with the auditing standards generally accepted in the United States and the standards applicable to financial audits contained in government auditing standards, issued by the comptroller general of the United States, and OMB circular A-133, audits of states, local governments, and nonprofit organizations.

Sec. 126. 2011 1st sp.s. c 50 s 124 (uncodified) is amended to read as follows:

FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$158,000~~)) $141,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$195,000~~)) $186,000

TOTAL APPROPRIATION . . . . . ((~~$353,000~~)) $327,000

Sec. 127. 2011 2nd sp.s. c 9 s 115 (uncodified) is amended to read as follows:

FOR THE ATTORNEY GENERAL

General Fund—State Appropriation (FY 2012) $4,758,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$2,727,000~~)) $7,690,000

General Fund—Federal Appropriation . . . . . ((~~$8,819,000~~)) $10,015,000

New Motor Vehicle Arbitration Account—State Appropriation. . . . . ((~~$972,000~~)) $968,000

Legal Services Revolving Account—State Appropriation. . . . . ((~~$206,617,000~~)) $197,375,000

Tobacco Prevention and Control Account—State Appropriation. $270,000

Medicaid Fraud Penalty Account—State Appropriation $1,129,000

TOTAL APPROPRIATION . . . . . ((~~$224,163,000~~)) $222,205,000

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. As part of its by agency report to the legislative fiscal committees and the office of financial management, the office of the attorney general shall include information detailing the agency's expenditures for its agency-wide overhead and a breakdown by division of division administration expenses.

(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 ways and means.

(3) The attorney general shall annually report to the fiscal committees of the legislature all new *cy pres* awards and settlements and all new accounts, disclosing their intended uses, balances, the nature of the claim or account, proposals, and intended timeframes for the expenditure of each amount. The

report shall be distributed electronically and posted on the attorney general's web site. The report shall not be printed on paper or distributed physically.

(4) The attorney general shall enter into an interagency agreement with the department of social and health services for expenditure of the state's proceeds from the *cy pres* settlement in *State of Washington v. AstraZeneca* (Seroquel) for the purposes set forth in sections 204 and 213 of this act.

(5) $62,000 of the legal services revolving fund—state appropriation is provided solely to implement House Bill No. 1770 (state purchasing). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(6) $5,924,000 of the legal services revolving account—state appropriation is provided solely to implement House Bill No. 2123 (workers' compensation). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(7) The office of the attorney general is authorized to expend $2,100,000 from the *Zyprexa* and other *cy pres* awards towards consumer protection costs in accordance with uses authorized in the court orders.

(8) $96,000 of the legal services revolving fund—state appropriation is provided solely to implement Senate Bill No. 5076 (financial institutions). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(9) $99,000 of the legal services revolving fund—state appropriation is provided solely to implement Engrossed Second Substitute Senate Bill No. 5769 (coal-fired generation). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(10) $416,000 of the legal services revolving fund—state appropriation is provided solely to implement Substitute Senate Bill No. 5801 (industrial insurance system). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(11) $31,000 of the legal services revolving fund—state appropriation is provided solely to implement Engrossed Substitute Senate Bill No. 5021 (election campaign disclosure). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(12) The executive ethics board shall: (a) Develop a statewide plan, with performance measures, to provide overall direction and accountability in all executive branch agencies and statewide elected offices; (b) coordinate and work with the commission on judicial conduct and the legislative ethics board; (c) assess and evaluate each agency's ethical culture through employee and stakeholder surveys, review Washington state quality award feedback reports, and publish an annual report on the results to the public; and (d) solicit outside evaluations, studies, and recommendations for improvements from academics, nonprofit organizations, the public disclosure commission, or other entities with expertise in ethics, integrity, and the public sector.

(13) $11,000 of the legal services revolving fund—state appropriation is provided solely to implement House Bill No. 2301 (boxing, martial arts, wrestling). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(14) $56,000 of the legal services revolving fund—state appropriation is provided solely to implement House Bill No. 2319 (affordable care act). If the

bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(15) $5,743,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the legal costs associated with the evaluation, filing, prosecution, response to petitions for release, and appeal of sexually violent predator civil commitment cases, as provided in chapter 71.09 RCW. Within the amount provided in this subsection, the attorney general may enter into an interagency agreement with a county prosecutor to perform prosecution services pursuant to chapter 71.09 RCW.

(16) $94,000 of the legal services revolving fund—state appropriation is provided solely to implement Senate Bill No. 6103 (reflexology and massage therapy). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(17) $57,000 of the legal services revolving fund—state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 6237 (medical assistants). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(18) If Engrossed Substitute Senate Bill No. 5978 (medicaid fraud) is not enacted by June 30, 2012, the amounts appropriated in this section from the medicaid fraud penalty account—state appropriation shall lapse and an additional $730,000 shall be appropriated from the general fund—state for fiscal year 2013 for fraud detection and prevention activities, recovery of improper payments, and for other medicaid fraud enforcement activities.

(19) $56,000 of the legal services revolving fund—state appropriation is provided solely to implement House Bill No. 2592 (extended foster care). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(20) $65,000 of the legal services revolving fund—state appropriation is provided solely for implementation of Second Engrossed Substitute Senate Bill No. 6406 (state natural resources). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

Sec. 128. 2011 2nd sp.s. c 9 s 116 (uncodified) is amended to read as follows:

FOR THE CASELOAD FORECAST COUNCIL

General Fund—State Appropriation (FY 2012) . . . . . ((~~$1,310,000~~))
$1,277,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$1,309,000~~))
$1,180,000

TOTAL APPROPRIATION . . . . . ((~~$2,619,000~~))
$2,457,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section include funding for activities transferred from the sentencing guidelines commission to the caseload forecast council pursuant to Engrossed Substitute Senate Bill No. 5891 (criminal justice cost savings). Prior to the effective date of Engrossed Substitute Senate Bill No. 5891, the appropriations in this section may be expended for the continued operations and expenses of the sentencing guidelines commission pursuant to the

expenditure authority schedule produced by the office of financial management in accordance with chapter 43.88 RCW.

(2) $57,000 of the general fund—state appropriation for fiscal year 2012 and $57,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the implementation of Senate Bill No. 5304 (college bound scholarship).

Sec. 129. 2011 2nd sp.s. c 9 s 117 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$57,261,000~~)) $51,799,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$72,459,000~~)) $72,839,000

General Fund—Federal Appropriation . . . . . ((~~$282,185,000~~)) $340,184,000

General Fund—Private/Local Appropriation . . . . . ((~~$4,989,000~~)) $5,036,000

Public Works Assistance Account—State Appropriation . . . . . ((~~$2,764,000~~)) $2,733,000

Drinking Water Assistance Administrative Account—State Appropriation $437,000

Lead Paint Account—State Appropriation $65,000

Building Code Council Account—State Appropriation $13,000

Home Security Fund Account—State Appropriation . . . . . ((~~$16,652,000~~)) $21,007,000

Affordable Housing for All Account—State Appropriation . . . . . ((~~$11,902,000~~)) $11,899,000

County Research Services Account—State Appropriation . . . . . ((~~$1,081,000~~)) $540,000

Financial Fraud and Identity Theft Crimes Investigation and Prosecution Account—State Appropriation $1,166,000

Low-Income Weatherization Assistance Account—State Appropriation . . . . . ((~~$5,778,000~~)) $2,427,000

City and Town Research Services Account—State Appropriation . . . . . ((~~$5,166,000~~)) $2,577,000

((~~Manufacturing Innovation and Modernization Account—State Appropriation . . . . . $61,000~~))

Community and Economic Development Fee Account—State Appropriation . . . . . ((~~$6,488,000~~)) $6,781,000

Washington Housing Trust Account—State Appropriation . . . . . ((~~$17,498,000~~)) $17,444,000

Prostitution Prevention and Intervention Account—
State Appropriation $86,000
Public Facility Construction Loan Revolving
Account—State Appropriation . . . . . ((~~$755,000~~))
$748,000
Washington Community Technology Opportunity Account—
State Appropriation $713,000
Liquor Revolving Account—State Appropriation $2,802,000
TOTAL APPROPRIATION . . . . . ((~~$487,519,000~~))
$541,296,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Repayments of outstanding mortgage and rental assistance program loans administered by the department under RCW 43.63A.640 shall be remitted to the department, including any current revolving account balances. The department shall collect payments on outstanding loans, and deposit them into the state general fund. Repayments of funds owed under the program shall be remitted to the department according to the terms included in the original loan agreements.

(2) $500,000 of the general fund—state appropriation for fiscal year 2012 and $500,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for a grant to resolution Washington to building statewide capacity for alternative dispute resolution centers and dispute resolution programs that guarantee that citizens have access to low-cost resolution as an alternative to litigation.

(3) $306,000 of the general fund—state appropriation for fiscal year 2012 and $306,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for a grant to the retired senior volunteer program.

(4) The department shall administer its growth management act technical assistance so that smaller cities receive proportionately more assistance than larger cities or counties.

(5) $1,800,000 of the home security fund—state appropriation is provided for transitional housing assistance or partial payments for rental assistance under the independent youth housing program.

(6) $5,000,000 of the home security fund—state appropriation is for the operation, repair, and staffing of shelters in the homeless family shelter program.

(7) $198,000 of the general fund—state appropriation for fiscal year 2012 and $198,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Washington new Americans program.

(8) $2,949,000 of the general fund—state appropriation for fiscal year 2012 and $2,949,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for associate development organizations.

(9) $127,000 of the general fund—federal appropriation is provided solely for implementation of Substitute House Bill No. 1886 (Ruckelshaus center process). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(10) Up to $200,000 of the general fund—private/local appropriation is for a grant to the Washington tourism alliance for the maintenance of the Washington

state tourism web site www.experiencewa.com and its related sub-sites. The department may transfer ownership of the web site and other tourism promotion assets and assign obligations to the Washington tourism alliance for purposes of tourism promotion throughout the state. The alliance may use the assets only in a manner consistent with the purposes for which they were created. Any revenue generated from these assets must be used by the alliance for the sole purposes of statewide Washington tourism promotion. The legislature finds that the Washington tourism alliance, a not-for-profit, 501.c.6 organization established, funded, and governed by Washington tourism industry stakeholders to sustain destination tourism marketing across Washington, is an appropriate body to receive funding and assets from and assume obligations of the department for the purposes described in this section.

(11) Within the appropriations in this section, specific funding is provided to implement Substitute Senate Bill No. 5741 (economic development commission).

(12) $2,000,000 of the community and economic development fee account appropriation is provided solely for the department of commerce for services to homeless families through the Washington families fund.

(13) ((~~$260,000~~)) $234,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$259,000~~)) $233,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Washington asset building coalitions.

(14) $1,859,000 of the general fund—state appropriation for fiscal year 2012 and $1,859,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for innovative research teams, also known as entrepreneurial STARS, at higher education research institutions, and for entrepreneurs-in-residence programs at higher education research institutions and entrepreneurial assistance organizations. Of these amounts no more than $50,000 in fiscal year 2012 and no more than $50,000 in fiscal year 2013 may be provided for the operation of entrepreneurs-in-residence programs at entrepreneurial assistance organizations external to higher education research institutions.

(15) Up to $700,000 of the general fund—private/local appropriation is for pass-through grants to cities in central Puget Sound to plan for transfer of development rights receiving areas under the central Puget Sound regional transfer of development rights program.

(16) $16,000 of the general fund—state appropriation for fiscal year 2012 is provided solely to implement section 503 of Substitute House Bill No. 1277 (licensed settings for vulnerable adults). The long-term care ombudsman shall convene an adult family home quality assurance panel to review problems concerning the quality of care for residents in adult family homes. If Substitute House Bill No. 1277 (licensed settings for vulnerable adults) is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(17) ((~~$24,605,000~~)) $19,605,000 of the general fund—state appropriation for fiscal year 2012 and $39,527,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for establishment of the essential needs and housing support program created in Engrossed Substitute House Bill No. 2082 (essential needs and assistance program). The department of commerce shall contract for these services with counties or community-based organizations

involved in providing essential needs and housing supports to low-income persons who meet eligibility pursuant to Engrossed Substitute House Bill No. 2082. The department shall limit the funding used for administration of the program to no more than five percent. Counties and community providers shall limit the funding used for administration of the program to no more than seven percent.

(a) Of the amounts provided in this subsection, $4,000,000 is provided solely for essential needs to clients who meet the eligibility established in Engrossed Substitute House Bill No. 2082. Counties and community-based organizations shall distribute basic essential products in a manner that prevents abuse. To the greatest extent possible, the counties or community-based organizations shall leverage local or private funds, and volunteer support to acquire and distribute the basic essential products.

(b) Of the amounts provided in this subsection, ((~~$30,000,000~~)) $55,000,000 is provided solely for housing support services to individuals who are homeless or who may become homeless, and are eligible for services under this program pursuant to Engrossed Substitute House Bill No. 2082.

(((~~(c) Of the amounts provided in this subsection, $30,000,000 is provided solely as a contingency fund to provide housing support services for individuals who may become homeless and are otherwise eligible for this program pursuant to Engrossed Substitute House Bill No. 2082.~~))

(18) $4,380,000 of the home security fund—state appropriation is provided solely for the department to provide homeless housing services in accordance with Engrossed Substitute House Bill No. 2048 (housing assistance surcharges). If Engrossed Substitute House Bill No. 2048 (housing assistance surcharges) is not enacted by June 30, 2012, the amounts provided in this subsection shall lapse.

(19) $85,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the developmental disabilities council to contract for a family-to-family mentor program to provide information and support to families and guardians of persons who are transitioning out of residential habilitation centers. To the maximum extent allowable under federal law, these funds shall be matched under medicaid through the department of social and health services and federal funds shall be transferred to the department for the purposes stated in this subsection.

(20) $2,802,000 of the liquor revolving account—state appropriation is provided solely for the department to contract with the municipal research and services center of Washington.

(21) $1,000,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for deposit in the shelter to housing project account, hereby created in the custody of the state treasurer as a nonappropriated account. The department may expend funds from the account solely for a two-year pilot project to enable young adults to move from temporary emergency shelter housing to transitional and permanent housing throughout King county. The pilot project will be administered under contract with the YMCA of greater Seattle in collaboration with the rising out of the shadows young adult shelter. Funding may be used for case management, housing subsidy, transportation, shelter services, training and evaluation. The pilot project and the shelter to housing project account expire December 31, 2014.

(22) $12,000 of the general fund—state appropriation for fiscal year 2013 is provided solely to implement Engrossed Second Substitute Senate Bill No. 5292 (irrigation and port districts). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(23) $100,000 of the general fund—private/local appropriation is provided solely for the department to provide analysis and an advisory opinion on whether a proposed electric generation project or conservation resource qualifies to meet mandatory conservation targets in accordance with Substitute Senate Bill No. 6414 (review process/utilities). The department is authorized to require an applicant to pay an application fee to cover the cost of reviewing the project and preparing an advisory opinion. If Substitute Senate Bill No. 6414 (review process/utilities) is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

Sec. 130. 2011 1st sp.s. c 50 s 128 (uncodified) is amended to read as follows:

FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL

General Fund—State Appropriation (FY 2012) . . . . . ((~~$674,000~~)) $648,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$728,000~~)) $789,000

Lottery Administrative Account—State Appropriation $50,000

TOTAL APPROPRIATION . . . . . ((~~$1,452,000~~)) $1,487,000

The appropriations in this section are subject to the following conditions and limitations: $90,000 of the general fund—state appropriation for fiscal year 2013 is provided solely to implement Substitute Senate Bill No. 6636 (balanced budget). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

***Sec. 131.** 2011 2nd sp.s. c 9 s 118 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

General Fund—State Appropriation (FY 2012) . . . . . ((~~$18,627,000~~)) $18,369,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$18,851,000~~)) $18,584,000

General Fund—Federal Appropriation . . . . . ((~~$31,534,000~~)) $31,530,000

General Fund—Private/Local Appropriation . . . . . ((~~$1,270,000~~)) $1,370,000

Performance Audits of Government Account—State Appropriation . . . . . ((~~$25,000~~)) $198,000

Economic Development Strategic Reserve Account—State Appropriation $280,000

Department of Personnel Services—State Appropriation . . . . . ((~~$7,827,000~~)) $8,551,000

Data Processing Revolving Account—State
Appropriation. . . . . ((~~$5,208,000~~))
$5,910,000
Higher Education Personnel Services Account—State
Appropriation. $1,537,000
Aquatic Lands Enhancement Account—State Appropriation $100,000
TOTAL APPROPRIATION . . . . . ((~~$85,259,000~~))
$86,429,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $1,210,000 of the general fund—state appropriation for fiscal year 2012 and $1,210,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for implementation of House Bill No. 1178 (regulatory assistance office). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(2) $150,000 of the general fund—state appropriation for fiscal year 2012 is provided solely for the office of financial management to contract with an independent consultant to evaluate and recommend the most cost-effective provision of services required to support the department of social and health services special commitment center on McNeil Island. The evaluation shall include island operation services that include, but are not limited to: (a) Marine transport of passengers and goods; (b) wastewater treatment; (c) fire protection and suppression; (d) electrical supply; (e) water supply; and (f) road maintenance.

The office of financial management shall solicit the input of Pierce county, the department of corrections, and the department of social and health services in developing the request for proposal, evaluating applications, and directing the evaluation. The consultant shall report to the governor and legislature by November 15, 2011.

(3) $100,000 of the aquatic lands enhancement account—state appropriation is provided solely for the office of financial management to prepare a report to be used to initiate a comprehensive, long-range planning process for the future of McNeil Island during the 2013-2015 fiscal biennium.

(a) The report on the initiation of the process must document:

(i) Ownership issues, including consultation with the federal government about its current legal requirements associated with the island;

(ii) Federal and state decision-making processes to change use or ownership;

(iii) Tribal treaty interests;

(iv) Fish and wildlife species and their habitats;

(v) Land use and public safety needs;

(vi) Recreational opportunities for the general public;

(vii) Historic and archaeological resources; and

(viii) Revenue from and necessary to support potential future uses of the island.

(b) The report shall develop and recommend a comprehensive, long-range planning process for the future of the island and associated aquatic resources, addressing the items in (a) of this subsection.

(c) The office of financial management may use its own staff and other public agency and tribal staff or contract for services, and may create a work group of knowledgeable agencies, organizations, and individuals to assist in preparing the report.

(d) The office of financial management shall engage in broad consultation with interested parties, including, but not limited to:

(i) Federal agencies with relevant responsibilities;

(ii) Tribal governments;

(iii) State agencies;

(iv) Local governments and communities in the area, including the Anderson Island community, Steilacoom, and Pierce county; and

(v) Interested private organizations and individuals.

(e) The report must be submitted to the governor and appropriate committees of the legislature by October 1, 2012.

(4) The appropriations in this section include funding for activities transferred from the sentencing guidelines commission to the office of financial management pursuant to Engrossed Substitute Senate Bill No. 5891 (criminal justice cost savings). Prior to the effective date of Engrossed Substitute Senate Bill No. 5891, the appropriations in this section may be expended for the continued operations and expenses of the sentencing guidelines commission pursuant to the expenditure authority schedule produced by the office of financial management in accordance with chapter 43.88 RCW.

(5) $23,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the office of regulatory assistance to implement the following:

(a) Coordination of an agency small business liaison team to assist small businesses with permitting and regulatory issues. The small business liaison team, as part of the biennial report submitted by the office of regulatory assistance, must provide recommendations for improvements to inspection and compliance practices and ways to improve customer service for regulatory agencies. The office must work with regulatory agencies to: (i) Assure that additional violations or corrective actions that could have been discovered and noted in the original violation or correction notice are not subsequently added and to provide a single list of any violations discovered during the regulatory visit or inspection; (ii) provide notice about when the business may expect the results of a technical assistance or regulatory visit; (iii) provide information about how the business may provide anonymous feedback regarding a technical assistance or other regulatory visit; and (iv) provide information regarding the role of the agency's small business liaison as a neutral party within the agency, as well as contact information for the liaison.

(b) In coordination with regulatory agencies, development of an anonymous customer service survey that regulated entities may complete after an inspection or a technical assistance visit under chapter 43.05 RCW, or a consultative visit under RCW 49.17.250. The survey must include questions addressing the points in this subsection (b) but may be designed in a way that best serves the needs of the multiple agencies and customers that will be using the survey. The survey must provide a way of identifying the agency that performed the inspection, and if possible within the resources allowed, provide

a means of identifying the inspector who provided services. Questions should address the following topics:

(i) Whether staff were helpful, friendly, listened to the regulated party, used professional judgment, and communicated clearly;

(ii) Whether the inspector viewed the customer as a partner, worked on a cooperative relationship, and worked on innovative solutions;

(iii) Whether the inspector informed the customer why the customer received a site visit or inspection, described the site visit or inspection process, answered questions about the process, and explained regulatory requirements; and

(iv) Whether the inspector was knowledgeable about the businesses operations and provided useful technical information.

The survey must be available on the office web site. The results of the surveys must be summarized, by agency, in a report and forwarded to the agency director, the governor, and the appropriate committees of the legislature. Each agency shall receive a copy of all relevant survey information. No identifying information may be included that would reveal the identity of the respondent.

(6) $115,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for implementation of Engrossed Substitute House Bill No. 2483 (higher education coordination). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(7)(a) The office of financial management shall determine if cost savings can be achieved by the state through contracting for interpreter services more effectively. The office of financial management must work with all state agencies that use interpreter services to determine:

(i) How agencies currently procure interpreter services;

(ii) To what degree brokers or foreign language agencies are used in the acquisition of interpreter services; and

(iii) The cost of interpreter services as currently provided.

(b) The office of financial management, in consultation with the department of enterprise services, must also examine approaches to procuring interpreter services, including using the department of enterprise services' master contract, limiting overhead costs associated with interpreter contracts, and direct scheduling of interpreters. The report must include recommendations for the state to procure services in a more consistent and cost-effective manner.

(c) The office of financial management, in consultation with the department of labor and industries, must determine the impact that any alternative approach to procuring interpreter services will have on medical providers.

(d) The report must include:

(i) Analysis of the current process for procuring interpreter services;

(ii) Recommendations regarding options to make obtaining interpreter services more consistent and cost-effective; and

(iii) Estimates for potential cost savings.

(e) The office of financial management must report to the fiscal committees of the legislature by December 1, 2012.

(8) $25,000 of the general fund—state appropriation for fiscal year 2012 and $225,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for implementation of House Bill No. 2824 (education funding).

If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

***Sec. 131 was partially vetoed. See message at end of chapter.**

Sec. 132. 2011 2nd sp.s. c 9 s 119 (uncodified) is amended to read as follows:

FOR THE OFFICE OF ADMINISTRATIVE HEARINGS
Administrative Hearings Revolving Account—State
Appropriation. . . . . ((~~$34,043,000~~))
$35,713,000

The appropriation in this section is subject to the following conditions and limitations: $769,000 of the administrative hearings revolving account—state appropriation is provided solely to implement Engrossed Substitute Senate Bill No. 5921 (social services programs). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

Sec. 133. 2011 2nd sp.s. c 9 s 120 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE LOTTERY
Lottery Administrative Account—State
Appropriation. . . . . ((~~$25,709,000~~))
$24,664,000

Sec. 134. 2011 1st sp.s. c 50 s 132 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON HISPANIC AFFAIRS
General Fund—State Appropriation (FY 2012) . . . . . ((~~$246,000~~))
$244,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$250,000~~))
$244,000
TOTAL APPROPRIATION . . . . . ((~~$496,000~~))
$488,000

Sec. 135. 2011 1st sp.s. c 50 s 133 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS
General Fund—State Appropriation (FY 2012) . . . . . ((~~$239,000~~))
$237,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$238,000~~))
$232,000
TOTAL APPROPRIATION . . . . . ((~~$477,000~~))
$469,000

Sec. 136. 2011 2nd sp.s. c 9 s 121 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—OPERATIONS
Department of Retirement Systems Expense
Account—State Appropriation . . . . . ((~~$47,049,000~~))
$46,511,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $146,000 of the department of retirement systems—state appropriation is provided solely for the administrative costs associated with implementation of House Bill No. 2070 (state and local government employees). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(2) $65,000 of the department of retirement systems—state appropriation is provided solely for the administrative costs associated with implementation of House Bill No. 1625 (plan 3 default investment option). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(3) $133,000 of the department of retirement systems—state appropriation is provided solely for the administrative costs associated with implementation of Engrossed House Bill No. 1981 as amended (post-retirement employment). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(4) $15,000 of the department of retirement systems expense account—state appropriation is provided solely for the administrative costs associated with implementation of Substitute House Bill No. 2021 (plan 1 annual increase amounts). If the bill is not enacted by June 30, 2011, the amount provided in this section shall lapse.

(5) $32,000 of the department of retirement systems—state appropriation is provided solely for the administrative costs associated with implementation of Engrossed Senate Bill No. 5159 (state patrol retirement system service credit). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

Sec. 137. 2011 2nd sp.s. c 9 s 122 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF REVENUE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$100,927,000~~))
$100,691,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$100,801,000~~))
$99,207,000

Timber Tax Distribution Account—State Appropriation . . . . . ((~~$5,940,000~~))
$5,900,000

Waste Reduction/Recycling/Litter Control—State Appropriation. $129,000

Waste Tire Removal Account—State Appropriation $2,000

State Toxics Control Account—State Appropriation $87,000

Oil Spill Prevention Account—State Appropriation $19,000

Master License Fund—State Appropriation . . . . . ((~~$14,012,000~~))
$13,922,000

Vehicle License Fraud Account—State Appropriation. $5,000

Performance Audits of Government Account—State Appropriation. $3,188,000

TOTAL APPROPRIATION . . . . . ((~~$225,110,000~~))
$223,150,000

Sec. 138. 2011 1st sp.s. c 50 s 137 (uncodified) is amended to read as follows:

FOR THE BOARD OF TAX APPEALS
General Fund—State Appropriation (FY 2012) . . . . . ((~~$1,241,000~~))
$1,189,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$1,219,000~~))
$1,150,000
TOTAL APPROPRIATION . . . . . ((~~$2,460,000~~))
$2,339,000

Sec. 139. 2011 2nd sp.s. c 9 s 123 (uncodified) is amended to read as follows:

FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
OMWBE Enterprises Account—State Appropriation . . . . . ((~~$3,264,000~~))
$3,654,000

Sec. 140. 2011 2nd sp.s. c 9 s 125 (uncodified) is amended to read as follows:

FOR THE INSURANCE COMMISSIONER
General Fund—State Appropriation (FY 2013) $650,000
General Fund—Federal Appropriation . . . . . ((~~$4,452,000~~))
$4,450,000
Insurance Commissioners Regulatory Account—State
Appropriation . . . . . ((~~$47,514,000~~))
$47,987,000
TOTAL APPROPRIATION . . . . . ((~~$51,966,000~~))
$53,087,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $75,000 of the insurance commissioner's regulatory account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5445 (health benefit exchange).

(2) $42,000 of the insurance commissioner's regulatory account—state appropriation is provided solely for the implementation of Senate Bill No. 5213 (insurance statutes).

(3) $758,000 of the insurance commissioners regulatory account—state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 2319 (affordable care act). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(4) $650,000 of the general fund—state appropriation for fiscal year 2013 is provided solely to implement House Bill No. 2829 or Senate Bill No. 5940 (public school employees' insurance benefits). If neither bill is enacted by June 30, 2012, the amount provided in this subsection shall lapse.

Sec. 141. 2011 1st sp.s. c 50 s 136 (uncodified) is amended to read as follows:

FOR THE STATE INVESTMENT BOARD
State Investment Board Expense Account—State
Appropriation . . . . . ((~~$29,256,000~~))
$29,075,000

Sec. 142. 2011 2nd sp.s. c 9 s 128 (uncodified) is amended to read as follows:

FOR THE LIQUOR CONTROL BOARD

Liquor Control Board Construction and Maintenance Account—State Appropriation . . . . . ((~~$10,081,000~~)) $3,063,000

Liquor Revolving Account—State Appropriation . . . . . ((~~$176,238,000~~)) $171,838,000

General Fund—Federal Appropriation . . . . . ((~~$120,000~~)) $945,000

General Fund—Private/Local Appropriation $25,000

TOTAL APPROPRIATION . . . . . ((~~$186,439,000~~)) $175,871,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The legislature intends to facilitate the orderly transition of liquor services as required by Initiative Measure No. 1183. For liquor control board employees that remain through June 15, 2012, a temporary opportunity to cash out sick leave is provided to assist the unique challenges to the liquor control board and its employees posed by this transition.

(2) Within the amounts appropriated in this section from the liquor revolving account—state appropriation, liquor control board employees who: (a) Occupy positions in the job classifications provided in subsection (3)(c) of this section that will be eliminated after the liquor control board ceases to distribute liquor; and (b) remain as liquor control board employees through June 15, 2012, and who separate from service due to lay off by October 1, 2012, may elect to receive remuneration for their entire sick leave balance at a rate equal to one day's current monetary compensation of the employee for each four full days of accrued sick leave.

(3) The following conditions apply to sick leave cash out under this subsection:

(a) The rate of monetary compensation for the purposes of this subsection shall not be reduced by any temporary salary reduction;

(b) Remuneration or benefits received under this subsection shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state;

(c) The following job classifications are eligible:

(i) Liquor store clerk;

(ii) Retail assistant store manager 1;

(iii) Retail assistant store manager 2;

(iv) Retail store manager 3;

(v) Retail store manager 4;

(vi) Retail district manager;

(vii) Retail operations manager;

(viii) Director of retail services;

(ix) Director of distribution center;

(x) Director of purchasing;

(xi) Director of business enterprise;

(xii) Warehouse operator 1;
(xiii) Warehouse operator 2;
(xiv) Warehouse operator 3; and
(xv) Warehouse operator 4; and
(d) Should the legislature revoke any remuneration or benefits granted under this section, an affected employee shall not be entitled thereafter to receive such benefits as a matter of contractual right.

Sec. 143. 2011 2nd sp.s. c 9 s 129 (uncodified) is amended to read as follows:

FOR THE UTILITIES AND TRANSPORTATION COMMISSION
General Fund—Federal Appropriation $502,000
General Fund—Private/Local Appropriation . . . . . ((~~$11,175,000~~))
$11,166,000
Public Service Revolving Account—State
Appropriation. . . . . ((~~$30,992,000~~))
$30,872,000
Pipeline Safety Account—State Appropriation . . . . . ((~~$3,201,000~~))
$3,183,000
Pipeline Safety Account—Federal Appropriation . . . . . ((~~$2,848,000~~))
$2,844,000
TOTAL APPROPRIATION . . . . . ((~~$48,718,000~~))
$48,567,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In accordance with RCW 80.36.610(1), the utilities and transportation commission is authorized to establish federal telecommunications act services fees in fiscal year 2012 as necessary to meet the actual costs of conducting business and the appropriation levels in this section.

(2) $15,000 of the pipeline safety account—state appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 1634 (underground utilities).

(3) $182,000 of the public service revolving account—state appropriation is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5769 (coal-fired generation).

(4) $169,000 of the public service revolving account—state appropriation is provided solely for the implementation of Second Substitute Senate Bill No. 5034 (private infrastructure).

Sec. 144. 2011 2nd sp.s. c 9 s 130 (uncodified) is amended to read as follows:

FOR THE MILITARY DEPARTMENT
General Fund—State Appropriation (FY 2012) . . . . . ((~~$7,175,000~~))
$7,116,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$7,175,000~~))
$6,872,000
General Fund—Federal Appropriation. . . . . ((~~$159,181,000~~))
$159,075,000

Enhanced 911 Account—State Appropriation . . . . . ((~~$46,556,000~~))
$48,620,000
Disaster Response Account—State Appropriation . . . . . ((~~$17,933,000~~))
$23,119,000
Disaster Response Account—Federal Appropriation . . . . . ((~~$66,266,000~~))
$91,368,000
Military Department Rent and Lease Account—State
Appropriation. $615,000
Worker and Community Right-to-Know Account—State
Appropriation. . . . . ((~~$2,165,000~~))
$2,163,000
TOTAL APPROPRIATION . . . . . ((~~$307,066,000~~))
$338,948,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $18,018,000 of the disaster response account—state appropriation and $66,266,000 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 to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year 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 2011-2013 biennium based on current revenue and expenditure patterns.

(2) $75,000,000 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; and

(b) The department shall submit an annual 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; and incremental changes from the previous estimate.

Sec. 145. 2011 2nd sp.s. c 9 s 131 (uncodified) is amended to read as follows:

FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

General Fund—State Appropriation (FY 2012) . . . . . ((~~$2,346,000~~))
$2,104,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$2,400,000~~))
$2,130,000
Higher Education Personnel Services Account—State
Appropriation. . . . . ((~~$251,000~~))
$276,000
Department of Personnel Service Account—State
Appropriation. . . . . ((~~$3,309,000~~))
$3,290,000

TOTAL APPROPRIATION . . . . . ((~~$8,306,000~~))
$7,800,000

Sec.146. 2011 2nd sp.s. c 9 s 126 (uncodified) is amended to read as follows:

FOR THE BOARD OF ACCOUNTANCY
Certified Public Accountants' Account—State
Appropriation. . . . . ((~~$2,808,000~~))
$2,642,000

Sec. 147. 2011 1st sp.s. c 50 s 142 (uncodified) is amended to read as follows:

FOR THE FORENSIC INVESTIGATION COUNCIL
Death Investigations Account—State Appropriation . . . . . ((~~$286,000~~))
$490,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $250,000 of the death investigations 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.

(2) $210,000 of the death investigations account appropriation is provided solely for providing financial assistance to local jurisdictions in identifying human remains.

Sec. 148. 2011 2nd sp.s. c 9 s 127 (uncodified) is amended to read as follows:

FOR THE HORSE RACING COMMISSION
Horse Racing Commission Operating Account—State
Appropriation. . . . . ((~~$4,007,000~~))
$3,923,000

Sec. 149. 2011 2nd sp.s. c 9 s 132 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ENTERPRISE SERVICES
General Fund—State Appropriation (FY 2012) . . . . . ((~~$3,501,000~~))
$3,401,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$3,495,000~~))
$3,309,000
General Fund—Federal Appropriation. $177,000
General Fund—Private/Local Appropriation $368,000
Building Code Council Account—State Appropriation . . . . . ((~~$1,187,000~~))
$1,186,000
Department of Personnel Service Account—State
Appropriation. . . . . ((~~$11,119,000~~))
$11,117,000
Enterprise Services Account—State Appropriation . . . . . ((~~$26,540,000~~))
$26,336,000

TOTAL APPROPRIATION . . . . . ((~~$46,387,000~~))
$45,894,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are for the operations and expenses of the department of enterprise services as established by Engrossed Substitute Senate Bill No. 5931 (central service functions of state government), effective October 1, 2011. Prior to October 1, 2011, the appropriations in this section may be expended for the continued operations and expenses of the office of financial management, the department of general administration, the department of information services, and the department of personnel, pursuant to the expenditure authority schedules produced by the office of financial management, in accordance with chapter 43.88 RCW.

(2) ((~~$3,090,000~~)) $3,028,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$3,090,000~~)) $2,967,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the payment of facilities and services charges, utilities and contracts charges, public and historic facilities charges, and capital projects surcharges allocable to the senate, house of representatives, statute law committee, and joint legislative systems committee. The department shall allocate charges attributable to these agencies among the affected revolving funds. The department shall maintain an interagency agreement with these agencies to establish performance standards, prioritization of preservation and capital improvement projects, and quality assurance provisions for the delivery of services under this subsection. The legislative agencies named in this subsection shall continue to enjoy all of the same rights of occupancy and space use on the capitol campus as historically established.

(3) In accordance with RCW 46.08.172 and 43.135.055, the department is authorized to increase parking fees in fiscal years 2012 and 2013 as necessary to meet the actual costs of conducting business.

(4) The building code council account appropriation is provided solely for the operation of the state building code council as required by statute and modified by the standards established by executive order 10-06. The council shall not consider any proposed code amendment or take any other action not authorized by statute or in compliance with the standards established in executive order 10-06. No member of the council may receive compensation, per diem, or reimbursement for activities other than physical attendance at those meetings of the state building code council or the council's designated committees, at which the opportunity for public comment is provided generally and on all agenda items upon which the council proposes to take action.

(5) Specific funding is provided for the purposes of section 3 of House Bill No. 1770 (state purchasing).

(6) The amounts appropriated in this section are for implementation of Senate Bill No. 5931 (streamlining central service functions).

(7) The department of enterprise services shall purchase flags needed for ceremonial occasions on the capitol campus in order to fully represent the countries that have an international consulate in Washington state.

(8) Before any agency may purchase a passenger motor vehicle as defined in RCW 43.19.560, the agency must have written approval from the director of the department of enterprise services.

(9) The department shall adjust billings for self-insurance premiums to transportation agencies to reflect rate reductions assumed in this act.

Sec. 150. 2011 1st sp.s. c 50 s 147 (uncodified) is amended to read as follows:

FOR THE BOARD FOR VOLUNTEER FIREFIGHTERS

Volunteer Firefighters' and Reserve Officers'
Administrative Account—State Appropriation . . . . . ((~~$1,064,000~~))
$1,039,000

Sec. 151. 2011 1st sp.s. c 50 s 151 (uncodified) is amended to read as follows:

FOR INNOVATE WASHINGTON

General Fund—State Appropriation (FY 2012) . . . . . ((~~$2,999,000~~))
$2,879,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$3,011,000~~))
$2,755,000
TOTAL APPROPRIATION . . . . . ((~~$6,010,000~~))
$5,634,000

The appropriations in this section are subject to the following conditions and limitations: $65,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the implementation of Substitute Senate Bill No. 5982 (aerospace technology innovation). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

Sec. 152. 2011 1st sp.s. c 50 s 149 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Washington State Heritage Center Account—State
Appropriation. . . . . ((~~$2,517,000~~))
$2,487,000
General Fund—Federal Appropriation. . . . . ((~~$1,908,000~~))
$1,904,000
General Fund—Private/Local Appropriation $14,000
TOTAL APPROPRIATION . . . . . ((~~$4,439,000~~))
$4,405,000

PART II
HUMAN SERVICES

Sec. 201. 2011 2nd sp.s. c 9 s 201 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(1) 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. 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 health care authority and the department are 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~~)) the Washington medicaid integration partnership (WMIP) and the medicare integrated care project (MICP), the health care authority and the department may combine and transfer such medicaid funds appropriated under sections 204, 206, 208, and 213 of this act as may be necessary to finance a unified health care plan for the WMIP and the MICP program enrollment. The WMIP pilot projects shall not exceed a daily enrollment of 6,000 persons, nor expand beyond one county during the 2011-2013 fiscal biennium. The amount of funding assigned 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, times the number of clients enrolled. In implementing the WMIP and the MICP, the health care authority and the department may: (((~~(a)~~))) (i) Withhold from calculations of "available resources" as set forth in RCW 71.24.025 a sum equal to the capitated rate for enrolled individuals; and (((~~(b)~~))) (ii) 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 health care authority and the department shall conduct an evaluation of the WMIP((~~,~~)) by October 15, 2012, and of the MICP measuring changes in participant health outcomes, changes in patterns of service utilization, participant satisfaction, participant access to services, and the state fiscal impact.

(b) Effective January 1, 2013, if Washington has been selected to participate in phase two of the federal demonstration project for persons dually-eligible for both medicare and medicaid, the department and the authority may initiate the MICP. Participation in the project shall be limited to persons who are eligible for both medicare and medicaid and to counties in which the county legislative authority has agreed to the terms and conditions under which it will operate. The

purpose of the project shall be to demonstrate and evaluate ways to improve care while reducing state expenditures for persons enrolled both in medicare and medicaid. To that end, prior to initiating the project, the department and the authority shall assure that state expenditures shall be no greater on either a per person or total basis than the state would otherwise incur. Individuals who are solely eligible for medicaid may also participate if their participation is agreed to by the health care authority, the department, and the county legislative authority.

(4) The legislature finds that medicaid payment rates, as calculated by the department pursuant to the appropriations in this act, bear a reasonable relationship to the costs incurred by efficiently and economically operated facilities for providing quality services and will be sufficient to enlist enough providers so that care and services are available to the extent that such care and services are available to the general population in the geographic area. The legislature finds that cost reports, payment data from the federal government, historical utilization, economic data, and clinical input constitute reliable data upon which to determine the payment rates.

(5) The department shall to the maximum extent practicable use the same system for delivery of spoken-language interpreter services for social services appointments as the one established for medical appointments in section 213 of this act. When contracting directly with an individual to deliver spoken language interpreter services, the department shall only contract with language access providers who are working at a location in the state and who are state-certified or state-authorized, except that when such a provider is not available, the department may use a language access provider who meets other certifications or standards deemed to meet state standards, including interpreters in other states.

(6)(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, 2012, unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2012 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 2012 caseload forecasts and utilization assumptions in the long-term care, foster care, adoptions support, medicaid personal care, and child support programs, the department may transfer state moneys that are provided solely for a specified purpose. 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. 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.

Sec. 202. 2011 2nd sp.s. c 9 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 2012) . . . . . ((~~$295,011,000~~))
$287,014,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$294,232,000~~))
$285,018,000
General Fund—Federal Appropriation . . . . . ((~~$487,912,000~~))
$479,315,000
General Fund—Private/Local Appropriation . . . . . ((~~$1,358,000~~))
$1,354,000
Home Security Fund—State Appropriation $10,741,000
Domestic Violence Prevention Account—State
Appropriation. . . . . ((~~$1,154,000~~))
$1,240,000
Education Legacy Trust Account—State Appropriation $725,000
TOTAL APPROPRIATION . . . . . ((~~$1,091,133,000~~))
$1,065,407,000

The appropriations in this section are subject to the following conditions and limitations:

(1) 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.

(2) $668,000 of the general fund—state appropriation for fiscal year 2012 and $668,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to contract for the operation of one pediatric interim care center. The center shall provide residential care for up to thirteen children through two years of age. Seventy-five percent of the children served by the center must be in need of special care as a result of substance abuse by their mothers. The center shall also provide on-site training to biological, adoptive, or foster parents. The center shall provide at least three months of consultation and support to the parents accepting placement of children from the center. The center may recruit new and current foster and adoptive parents for infants served by the center. The department shall not require case management as a condition of the contract. The department shall collaborate with the pediatric interim care center to determine if and how the center could be appropriately incorporated into the performance-based contract model and report its findings to the legislature by December 1, 2012.

(3)(a) ((~~$85,202,000~~)) $80,887,000 of the general fund—state appropriation for fiscal year 2012, ((~~$85,408,000~~)) $81,067,000 of the general fund—state appropriation for fiscal year 2013, and ((~~$79,279,000~~)) $74,800,000 of the general fund—federal appropriation are provided solely for services for children and families ((~~subject to RCW 74.13.360 and House Bill No. 2122 (child welfare). Prior to approval of contract services pursuant to RCW 74.13.360 and House Bill No. 2122,~~)). The amounts provided in this section shall be allotted on a monthly basis and expenditures shall not exceed allotments based on a three

month rolling average without approval of the office of financial management following notification to the legislative fiscal committees.

(b) The department shall use ((~~performance-based contracts to provide~~)) these services to safely reduce the number of children in out-of-home care, safely reduce the time spent in out-of-home care prior to achieving permanency, and safely reduce the number of children returning to out-of-home care following permanency. The department shall provide an initial report to the legislature and the governor by January 15, 2012, regarding the start-up costs associated with performance-based contracts under RCW 74.13.360 ((~~and House Bill No. 2122 (child welfare)~~)).

(c) Of the amounts provided in (a) of this subsection, $579,000 of the general fund—state appropriation for fiscal year 2013 and $109,000 of the general fund—federal appropriation are provided solely for a receiving care center east of the Cascade mountains.

(4) $176,000 of the general fund—state appropriation for fiscal year 2012, $177,000 of the general fund—state appropriation for fiscal year 2013, $656,000 of the general fund—private/local appropriation, $253,000 of the general fund—federal appropriation, and $725,000 of the education legacy trust account—state appropriation are provided solely for children's administration to contract with an educational advocacy provider with expertise in foster care educational outreach. The amounts in this subsection are provided solely for contracted education coordinators to assist foster children in succeeding in K-12 and higher education systems and to assure a focus on education during the transition to performance based contracts. Funding shall be prioritized to regions with high numbers of foster care youth and/or regions where backlogs of youth that have formerly requested educational outreach services exist. The department shall utilize private matching funds to maintain educational advocacy services.

(5) $670,000 of the general fund—state appropriation for fiscal year 2012 and $670,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for services provided through children's advocacy centers.

(6) To ensure expenditures remain within available funds appropriated in this section as required by RCW 74.13A.005 and 74.13A.020, the secretary shall not set the amount of any adoption assistance payment or payments, made pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080, to more than ninety percent of the foster care maintenance payment for that child had he or she remained in a foster family home during the same period. This subsection does not apply to adoption assistance agreements in existence on the effective date of this section.

(7) $10,741,000 of the home security fund—state appropriation is provided solely for the department to contract for services pursuant to RCW 13.32A.030 and 74.15.220. The department shall contract and collaborate with service providers in a manner that maintains the availability and geographic representation of secure and semi-secure crisis residential centers and HOPE centers. To achieve efficiencies and increase utilization, the department shall allow the co-location of these centers, except that a youth may not be placed in a secure facility or the secure portion of a co-located facility except as specifically authorized by chapter 13.32A RCW. The reductions to appropriations in this subsection related to semi-secure crisis residential centers reflect a reduction to the number of beds for semi-secure crisis residential centers and not a reduction

in rates. Any secure crisis residential center or semi-secure crisis residential center bed reduction shall not be based solely upon bed utilization. The department is to exercise its discretion in reducing the number of beds but to do so in a manner that maintains availability and geographic representation of semi-secure and secure crisis residential centers.

(8) $47,000 of the general fund—state appropriation for fiscal year 2012, $14,000 of the general fund—state appropriation for fiscal year 2013, and $40,000 of the general fund—federal appropriation are provided solely to implement Substitute House Bill No. 1697 (dependency system). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(9) $564,000 of the general fund—federal appropriation is provided solely to implement Second Substitute House Bill No. 1128 (extended foster care). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(10) $799,000 of the general fund—state appropriation for fiscal year 2013 and $799,000 of the general fund—federal appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2264 (child welfare/contracting). If the bill is not enacted by June 30, 2012, the amounts provided in this subsection shall lapse.

(11) $178,000 of the general fund—federal appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 2592 (extended foster care). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(12) $616,000 of the general fund—state appropriation for fiscal year 2013 and $616,000 of the general fund—federal appropriation are provided solely for the implementation of Engrossed Substitute Senate Bill No. 6555 (child protective services). If the bill is not enacted by June 30, 2012, the amounts provided in this subsection shall lapse.

Sec. 203. 2011 2nd sp.s. c 9 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 2012) . . . . . ((~~$86,684,000~~))
$85,723,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$86,505,000~~))
$85,258,000
General Fund—Federal Appropriation . . . . . ((~~$3,758,000~~))
$3,809,000
General Fund—Private/Local Appropriation $1,903,000
Washington Auto Theft Prevention Authority Account—
State Appropriation $196,000
Juvenile Accountability Incentive Account—Federal
Appropriation. $2,801,000
TOTAL APPROPRIATION . . . . . ((~~$181,847,000~~))
$179,690,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $331,000 of the general fund—state appropriation for fiscal year 2012 and $331,000 of the general fund—state appropriation for fiscal year 2013 are 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) $2,716,000 of the general fund—state appropriation for fiscal year 2012 and $2,716,000 of the general fund—state appropriation for fiscal year 2013 are 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) $3,482,000 of the general fund—state appropriation for fiscal year 2012 and $3,482,000 of the general fund—state appropriation for fiscal year 2013 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) $1,130,000 of the general fund—state appropriation for fiscal year 2012 and $1,130,000 of the general fund—state appropriation for fiscal year 2013 are 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) $3,123,000 of the general fund—state appropriation for fiscal year 2012 and $3,123,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for grants to county juvenile courts for the following programs identified by the Washington state institute for public policy (institute) in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Functional family therapy, multi-systemic therapy, aggression replacement training and interagency coordination programs, or other programs with a positive benefit-cost finding in the institute's report. County juvenile courts shall apply to the juvenile rehabilitation administration for funding for program-specific participation and the administration shall provide grants to the courts consistent with the per-participant treatment costs identified by the institute.

(6) $1,537,000 of the general fund—state appropriation for fiscal year 2012 and $1,537,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for expansion of the following treatments and therapies in juvenile rehabilitation administration programs identified by the Washington state institute for public policy in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Multidimensional treatment foster care, family

integrated transitions, and aggression replacement training, or other programs with a positive benefit-cost finding in the institute's report. The administration may concentrate delivery of these treatments and therapies at a limited number of programs to deliver the treatments in a cost-effective manner.

(7)(a) The juvenile rehabilitation administration shall administer a block grant, rather than categorical funding, of consolidated juvenile service funds, community juvenile accountability act grants, the chemical dependency disposition alternative funds, the mental health disposition alternative, and the sentencing disposition alternative for the purpose of serving youth adjudicated in the juvenile justice system. In making the block grant, the juvenile rehabilitation administration shall follow the following formula and will prioritize evidence-based programs and disposition alternatives and take into account juvenile courts program-eligible youth in conjunction with the number of youth served in each approved evidence-based program or disposition alternative: (i) Thirty-seven and one-half percent for the at-risk population of youth ten to seventeen years old; (ii) fifteen percent for moderate and high-risk youth; (iii) twenty-five percent for evidence-based program participation; (iv) seventeen and one-half percent for minority populations; (v) three percent for the chemical dependency disposition alternative; and (vi) two percent for the mental health and sentencing dispositional alternatives. Funding for the special sex offender disposition alternative (SSODA) shall not be included in the block grant, but allocated on the average daily population in juvenile courts. Funding for the evidence-based expansion grants shall be excluded from the block grant formula. Funds may be used for promising practices when approved by the juvenile rehabilitation administration and juvenile courts, through the community juvenile accountability act committee, based on the criteria established in consultation with Washington state institute for public policy and the juvenile courts.

(b) The juvenile rehabilitation administration shall phase the implementation of the formula provided in subsection (1) of this section by including a stop-loss formula of five percent in fiscal year 2012 and five percent in fiscal year 2013.

(c) The juvenile rehabilitation administration and the juvenile courts shall establish a block grant funding formula oversight committee with equal representation from the juvenile rehabilitation administration and the juvenile courts. The purpose of this committee is to assess the ongoing implementation of the block grant funding formula, utilizing data-driven decision making and the most current available information. The committee will be cochaired by the juvenile rehabilitation administration and the juvenile courts, who will also have the ability to change members of the committee as needed to achieve its purpose. Initial members will include one juvenile court representative from the finance committee, the community juvenile accountability act committee, the risk assessment quality assurance committee, the executive board of the Washington association of juvenile court administrators, the Washington state center for court research, and a representative of the superior court judges association; two representatives from the juvenile rehabilitation administration headquarters program oversight staff, two representatives of the juvenile rehabilitation administration regional office staff, one representative of the juvenile rehabilitation administration fiscal staff and a juvenile rehabilitation administration division director. The committee may make changes to the

formula categories other than the evidence-based program and disposition alternative categories if it is determined the changes will increase statewide service delivery or effectiveness of evidence-based program or disposition alternative resulting in increased cost benefit savings to the state. Long-term cost benefit must be considered. Percentage changes may occur in the evidence-based program or disposition alternative categories of the formula should it be determined the changes will increase evidence-based program or disposition alternative delivery and increase the cost benefit to the state. These outcomes will also be considered in determining when evidence-based expansion or special sex offender disposition alternative funds should be included in the block grant or left separate.

(d) The juvenile courts and administrative office of the courts shall be responsible for collecting and distributing information and providing access to the data systems to the juvenile rehabilitation administration and the Washington state institute for public policy related to program and outcome data. The juvenile rehabilitation administration and the juvenile courts will work collaboratively to develop program outcomes that reinforce the greatest cost benefit to the state in the implementation of evidence-based practices and disposition alternatives.

(8) The juvenile courts and administrative office of the courts shall collect and distribute information related to program outcome and provide access to these data systems to the juvenile rehabilitation administration and Washington state institute for public policy. Consistent with chapter 13.50 RCW, all confidentiality agreements necessary to implement this information-sharing shall be approved within 30 days of the effective date of this section. The agreements between administrative office of the courts, the juvenile courts, and the juvenile rehabilitation administration shall be executed to ensure that the juvenile rehabilitation administration receives the data that the juvenile rehabilitation administration identifies as needed to comply with this subsection. This includes, but is not limited to, information by program at the statewide aggregate level, individual court level, and individual client level for the purpose of the juvenile rehabilitation administration providing quality assurance and oversight for the locally committed youth block grant and associated funds and at times as specified by the juvenile rehabilitation administration as necessary to carry out these functions. The data shall be provided in a manner that reflects the collaborative work the juvenile rehabilitation administration and juvenile courts have developed regarding program outcomes that reinforce the greatest cost benefit to the state in the implementation of evidence-based practices and disposition alternatives.

(9) The Washington association of juvenile court administrators and the juvenile rehabilitation administration, in consultation with the community juvenile accountability act advisory committee and the Washington state institute for public policy, shall analyze and review data elements available from the administrative office of the courts for possible integration into the evidence-based program quality assurance plans and processes. The administrative office of the courts, the Washington association of juvenile court administrators, and the juvenile rehabilitation administration shall provide information necessary to complete the review and analysis. The Washington association of juvenile court administrators and the juvenile rehabilitation administration shall report the

findings of their review and analysis, as well as any recommendations, to the legislature by December 1, 2012.

***Sec. 204.** 2011 2nd sp.s. c 9 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 2012) . . . . . ((~~$317,392,000~~))
$317,734,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$322,982,000~~))
$324,319,000

General Fund—Federal Appropriation . . . . . ((~~$448,732,000~~))
$449,593,000

General Fund—Private/Local Appropriation $17,864,000

Hospital Safety Net Assessment Fund—State Appropriation. . . . . ((~~$6,802,000~~))
$5,251,000

TOTAL APPROPRIATION . . . . . ((~~$1,113,772,000~~))
$1,114,761,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) $109,342,000 of the general fund—state appropriation for fiscal year 2012 and $109,341,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for persons and services not covered by the medicaid program. This is a reduction of $4,348,000 each fiscal year from the nonmedicaid funding that was allocated for expenditure by regional support networks during fiscal year 2011 prior to supplemental budget reductions. This $4,348,000 reduction shall be distributed among regional support networks proportional to each network's share of the total state population. To the extent possible, levels of regional support network spending shall be maintained 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.

(b) $6,590,000 of the general fund—state appropriation for fiscal year 2012, $6,590,000 of the general fund—state appropriation for fiscal year 2013, and $7,620,000 of the general fund—federal appropriation are provided solely for the department and regional support networks to continue to contract for implementation of high-intensity programs for assertive community treatment (PACT) teams. In determining the proportion of medicaid and nonmedicaid funding provided to regional support networks with PACT teams, the department shall consider the differences between regional support networks in the percentages of services and other costs associated with the teams that are not reimbursable under medicaid. The department may allow regional support networks which have nonmedicaid reimbursable costs that are higher than the nonmedicaid allocation they receive under this section to supplement these funds with local dollars or funds received under section 204(1)(a) of this act. The department and regional support networks shall maintain consistency with all

essential elements of the PACT evidence-based practice model in programs funded under this section.

(c) $5,850,000 of the general fund—state appropriation for fiscal year 2012, $5,850,000 of the general fund—state appropriation for fiscal year 2013, and $1,300,000 of the general fund—federal appropriation are provided solely for the western Washington regional support networks to provide either community- or hospital campus-based services for persons who require the level of care previously provided by the program for adaptive living skills (PALS) at western state hospital.

(d) The number of nonforensic beds allocated for use by regional support networks at eastern state hospital shall be 192 per day. The number of nonforensic beds allocated for use by regional support networks at western state hospital shall be 557 per day.

(e) 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.

(f) $4,582,000 of the general fund—state appropriation for fiscal year 2012 and $4,582,000 of the general fund—state appropriation for fiscal year 2013 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 release from confinement. Beginning in fiscal year 2013, the department shall report regional outcome data on individuals in jail who are referred for regional support network services. By December 1, 2012, the department shall provide a report to the relevant fiscal and policy committees of the legislature on the number of individuals referred to the program who had an evaluation for regional support network services either during incarceration or within 30 and 60 days of release from jail; and the number who were made newly eligible or reinstated to eligibility for medical assistance services either during incarceration or within 30 and 60 days of release from jail. In addition, the report shall identify how many of the individuals who were determined to be eligible for regional support network services received additional outpatient services within 30 and 60 days of release from incarceration.

(g) 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.

(h) $750,000 of the general fund—state appropriation for fiscal year 2012 and $750,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to continue performance-based incentive contracts to provide appropriate community support services for individuals with severe mental illness who were discharged from the state hospitals as part of the expanding community services initiative. These funds will be used to enhance community residential and support services provided by regional support networks through other state and federal funding.

(i) $1,125,000 of the general fund—state appropriation for fiscal year 2012 and $1,125,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Spokane regional support network to implement services

to reduce utilization and the census at eastern state hospital. Such services shall include:

(i) High intensity treatment team for persons who are high utilizers of psychiatric inpatient services, including those with co-occurring disorders and other special needs;

(ii) Crisis outreach and diversion services to stabilize in the community individuals in crisis who are at risk of requiring inpatient care or jail services;

(iii) Mental health services provided in nursing facilities to individuals with dementia, and consultation to facility staff treating those individuals; and

(iv) Services at the sixteen-bed evaluation and treatment facility.

At least annually, the Spokane regional support network shall assess the effectiveness of these services in reducing utilization at eastern state hospital, identify services that are not optimally effective, and modify those services to improve their effectiveness.

(j) $1,529,000 of the general fund—state appropriation for fiscal year 2012 and $1,529,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to reimburse Pierce and Spokane counties for the cost of conducting 180-day commitment hearings at the state psychiatric hospitals.

(k) Regional support networks may use local funds to earn additional federal medicaid match, provided the locally matched rate does not exceed the upper-bound of their federally allowable rate range, and provided that the enhanced funding is used only to provide medicaid state plan or waiver services to medicaid clients. Additionally, regional support networks may use a portion of the state funds allocated in accordance with (a) of this subsection to earn additional medicaid match, but only to the extent that the application of such funds to medicaid services does not diminish the level of crisis and commitment, community inpatient, residential care, and outpatient services presently available to persons not eligible for medicaid.

(l) Given the recent approval of federal medicaid matching funds for the disability lifeline and the alcohol and drug abuse treatment support act programs, the department shall charge regional support networks for only the state share rather than the total cost of community psychiatric hospitalization for persons enrolled in those programs.

(m) $750,000 of the general fund—state appropriation for fiscal year 2012, $750,000 of the general fund—state appropriation for fiscal year 2013, and $1,500,000 of the general fund—federal appropriation are provided solely to adjust regional support network capitation rates to account for the per diem rates actually paid for psychiatric care provided at hospitals participating in the certified public expenditure program operated pursuant to section 213 of this act.

(n) The appropriations in this section reflect efficiencies to be achieved through voluntary consolidation of regional support networks in accordance with Substitute House Bill No. 2139 (regional support networks). Voluntary consolidation of regional support networks is expected to result in administrative efficiencies and maximize dollars available for direct services to individuals with mental illnesses without corresponding increases in state appropriations.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2012) . . . . . ((~~$115,317,000~~))
$115,017,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$114,111,000~~))
$112,603,000
General Fund—Federal Appropriation . . . . . ((~~$153,324,000~~))
$153,618,000
General Fund—Private/Local Appropriation $67,325,000
TOTAL APPROPRIATION . . . . . ((~~$450,077,000~~))
$448,563,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state psychiatric 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) $231,000 of the general fund—state appropriation for fiscal year 2012 and $231,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for a community partnership between western state hospital and the city of Lakewood to support community policing efforts in the Lakewood community surrounding western state hospital. The amounts provided in this subsection (2)(b) are for the salaries, benefits, supplies, and equipment for one full-time investigator, one full-time police officer, and one full-time community service officer at the city of Lakewood.

(c) $45,000 of the general fund—state appropriation for fiscal year 2012 and $45,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for payment to the city of Lakewood for police services provided by the city at western state hospital and adjacent areas.

(d) $20,000,000 of the general fund—state appropriation for fiscal year 2012 and $20,000,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to maintain staffed capacity to serve an average daily census in forensic wards at western state hospital of 270 patients per day.

(e) The appropriations in this section reflect efficiencies to be achieved through enactment of Substitute Senate Bill No. 6492 (competency to stand trial). These efficiencies are expected to enable the hospitals to substantially increase the timeliness with which evaluations of defendant competency to stand trial are completed, and treatment to restore competency is initiated, without corresponding increases in state appropriations.

(3) SPECIAL PROJECTS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$1,168,000~~))
$1,148,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$1,164,000~~))
$1,276,000
General Fund—Federal Appropriation . . . . . ((~~$4,109,000~~))
$4,198,000
General Fund—Private/Local Appropriation $700,000
TOTAL APPROPRIATION . . . . . ((~~$7,141,000~~))
$7,322,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) $1,161,000 of the general fund—state appropriation for fiscal year 2012 and $1,161,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for children's evidence-based mental health services. Funding is sufficient to continue serving children at the same levels as fiscal year 2009.

(b) $700,000 of the general fund—private/local appropriation is provided solely for the University of Washington's evidence-based practice institute which supports the identification, evaluation, and implementation of evidence-based or promising practices for serving children and youth with mental health disorders. The department shall enter into an interagency agreement with the office of the attorney general for expenditure of $700,000 of the state's proceeds of the *cy pres* settlement in *State of Washington v. AstraZeneca* (Seroquel) for this purpose.

(c) $135,000 of the general fund—state appropriation for fiscal year 2013 and $89,000 of the general fund—federal appropriation are provided solely for the department to contract with the University of Washington's evidence-based practice institute and the Washington state institute for public policy to consult with the department and the health care authority on the implementation of Engrossed Second Substitute House Bill No. 2536 (children services/delivery). The department's programs responsible for administration of mental health, child welfare, and juvenile justice programs will coordinate with the health care authority on the development of contract terms which facilitate efforts to meet requirements of the bill. If Engrossed Second Substitute House Bill No. 2536 (children services/delivery) is not enacted by June 30, 2012, the amounts provided in this subsection shall lapse.

(4) PROGRAM SUPPORT

General Fund—State Appropriation (FY 2012) . . . . . ((~~$4,476,000~~))
$4,482,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$4,261,000~~))
$4,247,000
General Fund—Federal Appropriation . . . . . ((~~$7,227,000~~))
$7,210,000
General Fund—Private/Local Appropriation $446,000
TOTAL APPROPRIATION . . . . . ((~~$16,410,000~~))
$16,385,000

(a) The appropriations in this subsection are subject to the following conditions and limitations: In accordance with RCW 43.20B.110, 43.135.055, and 71.24.035, the department is authorized to increase license and certification fees in fiscal years 2012 and 2013 to support the costs of the regulatory program. The fee schedule increases must be developed so that the maximum amount of additional fees paid by providers statewide in the 2011-2013 fiscal biennium is $446,000. The department's fee schedule shall have differential rates for providers with proof of accreditation from organizations that the department has determined to have substantially equivalent standards to those of the department, including but not limited to the joint commission on accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, and the council on accreditation. To reflect the reduced costs associated with regulation of accredited programs, the department's fees for organizations with

such proof of accreditation must reflect the lower costs of licensing for these programs than for other organizations which are not accredited.

(b) $19,000 of the general fund--state appropriation for fiscal year 2012, $17,000 of the general fund--state appropriation for fiscal year 2013, and $34,000 of the general fund--federal appropriation are provided solely to support a partnership among the department of social and health services, the department of health, and agencies that deliver medical care and behavioral health services in Cowlitz county. The partnership shall identify and recommend strategies for resolving regulatory, licensing, data management, reporting, and funding barriers to more effective integration of primary medical and behavioral health care services in the county.

***Sec. 204 was partially vetoed. See message at end of chapter.**

***Sec. 205.** 2011 2nd sp.s. c 9 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 2012) . . . . . ((~~$418,815,000~~))
$405,412,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$422,854,000~~))
$420,327,000

General Fund—Federal Appropriation . . . . . ((~~$743,532,000~~))
$752,059,000

General Fund—Private/Local Appropriation $184,000

TOTAL APPROPRIATION . . . . . ((~~$1,585,385,000~~))
$1,577,982,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services 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.

(b) Amounts appropriated in this subsection reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients.

(c) Amounts appropriated in this subsection are sufficient to develop and implement the use of a consistent, statewide outcome-based vendor contract for employment and day services by July 1, 2012. The rates paid to vendors under this contract shall also be made consistent. In its description of activities the agency shall include activity listings and dollars appropriated for: Employment services, day services, child development services and county administration of services to the developmentally disabled. The department shall begin reporting to the office of financial management on these activities beginning in fiscal year 2010.

(d) $944,000 of the general fund—state appropriation for fiscal year 2012, $944,000 of the general fund—state appropriation for fiscal year 2013, and

$1,888,000 of the general fund—federal appropriation are provided solely for state contributions for individual provider health care benefits. Pursuant to the collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270, the state shall contribute to the multiemployer health benefits trust fund ((~~$1.96~~)) $2.21 per paid hour worked by individual providers.

(e) ((~~$1,871,000 of the general fund—state appropriation for fiscal year 2012, $1,995,000 of the general fund—state appropriation for fiscal year 2013, and $3,865,000 of the general fund—federal appropriation are provided solely for home care agencies to purchase health coverage for home care providers. The department shall calculate and distribute payments for health care benefits to home care agencies at $558 per month for each worker who cares for publicly funded clients at 86 hours or more per month. In order to negotiate the most comprehensive health benefits package for its employees, each agency may determine benefit levels according to the hours an employee works providing state-funded personal care. Health benefits shall be offered to all employees who care for publicly funded clients for 86 hours per month or more. At a minimum, employees who care for publicly funded clients at 140 hours a month or greater must receive a comprehensive medical benefit. Benefits shall not be provided to employees who care for publicly funded clients at 85 hours or less per month or as interim respite workers. The department shall not pay an agency for benefits provided to an employee who otherwise receives health care coverage through other family members, other employment based coverage, or military or veteran's coverage. The department shall require annually, each home care agency to review each of its employee's available health coverage and to provide a written declaration to the department verifying that health benefits purchased with public funds are solely for employees that do not have other available coverage. Home care agencies may determine a reasonable employee co-premium not to exceed 20 percent of the total benefit cost.~~

(~~f) $1,127,000~~)) $1,329,000 of the general fund—state appropriation for fiscal year 2012, ((~~$1,199,000~~)) $1,622,000 of the general fund—state appropriation for fiscal year 2013, and ((~~$2,322,000~~)) $2,947,000 of the general fund—federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, for instructional costs associated with the training of individual providers. ((~~House Bill No. 1548 and Senate Bill No. 5473 (long-term care worker requirements) make statutory changes to the increased training requirements and therefore the state shall contribute to the partnership $0.17 per paid hour worked by all home care workers. This amount is pursuant to the collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.~~)) Contributions are funded at $0.22 per benefit-eligible paid hour worked by all home care workers. Expenditures for the purposes specified in this subsection shall not exceed the amounts provided in this subsection. However, if the governor and the service employees international union healthcare 775nw can reach agreement on repurposing funding that is currently provided in the individual provider collective bargaining agreement for new individual provider wages paid during training or other training related items, then expenditures for training trust contributions for individual providers may include the amounts provided in this subsection and

the agreed upon repurposed funding. Funding in this section for purposes other than the individual provider collective bargaining agreement cannot be used for the purposes of this subsection (1)(e). It is the intent of the legislature that the funding provided in this subsection, including any repurposed funding, is sufficient to cover the costs of individual provider training and therefore tuition or other entrance fees are not necessary.

(f) $104,669,000 of the general fund—state appropriation for fiscal year 2013 and $104,669,000 of the general fund—federal appropriation are provided solely for the department to provide personal care services to waiver and nonwaiver in-home clients. The department shall provide the legislature with a report by December 5, 2012, on the feasibility of converting the medicaid personal care program for in-home adults to a medicaid program as found in section 1915(i) of the federal social security act that utilizes the option for self-direction of individualized budgets. The department shall operate the personal care program within the amounts specifically provided.

(g)(i) Within the amounts appropriated in this subsection, the department shall revise the current working age adult policy to allow clients to choose between employment and community access activities. Clients age 21 and older who are receiving services through a home- and community-based medicaid waiver shall be offered the choice to transition to a community access program after nine months of enrollment in an employment program, and the option to transition from a community access program to an employment program at any time. The department shall inform clients and their legal representatives of all available options for employment and day services. Information provided to the client and the client's legal representative shall include the types of activities each service option provides, and the amount, scope, and duration of service for which the client would be eligible under each service option. An individual client may be authorized for only one service option, either employment services or community access services. Clients may not participate in more than one of these services at any given time.

(ii) The department shall work with counties and stakeholders to strengthen and expand the existing community access program. The program must emphasize support for the client so they are able to participate in activities that integrate them into their community and support independent living and skills.

(iii) The appropriation in this subsection includes funding to provide employment or community access services to 168 medicaid eligible young adults with developmental disabilities living with their families who need employment opportunities and assistance after high school graduation.

(h) $75,000 of the general fund—state appropriation for fiscal year 2012 and $75,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the restoration of direct support to local organizations that utilize parent-to-parent networks and communication to promote access and quality of care for individuals with developmental disabilities and their families.

(i) In accordance with Engrossed Substitute House Bill No. 1277 (licensed settings for vulnerable adults), adult family home license fees are increased in fiscal years 2012 and 2013 to support the costs of conducting licensure, inspection, and regulatory programs.

(i) The current annual renewal license fee for adult family homes shall be increased to $100 per bed beginning in fiscal year 2012 and $175 per bed

beginning in fiscal year 2013. Adult family homes shall receive a corresponding vendor rate increase per medicaid patient day of $0.22 in fiscal year 2012 and $0.43 in fiscal year 2013 ((~~to cover the cost of the license fee increase for publicly funded beds~~)), or the amount necessary to fully fund the license fee increase for publicly funded beds, pursuant to the most recent bed estimates maintained by the department.

(ii) Beginning in fiscal year 2012, a processing fee of $2,750 shall be charged to each adult family home when the home is initially licensed. This fee is nonrefundable.

(j) Clients with developmental disabilities have demonstrated a need and a desire for a day services program as verified by over 900 clients currently accessing day programs through a long- term care service model. In addition, every individual, to include those with a developmental disability, should have the opportunity for meaningful employment which allows them to contribute to their communities and to become as self-sufficient as possible. Providing choice empowers recipients of publicly funded services and their families by expanding their degree of control over the services and supports they need.

The department shall work with legislators and stakeholders to develop a new approach to employment and day services. The objective of this plan is to ensure that adults with developmental disabilities have optimum choices, and that employment and day offerings are comprehensive enough to meet the needs of all clients currently served on a home and community based waiver. The proposal shall be submitted to the 2012 legislature for consideration and shall be constructed such that a client ultimately receives employment, community access, or the community day option but not more than one service at a time. The proposal shall include options for program efficiencies within the current employment and day structure and shall provide details on the plan to implement a consistent, statewide outcome-based vendor contract for employment and day services as specified in (c) of this subsection.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2012) . . . . . ((~~$80,815,000~~))
$75,436,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$79,939,000~~))
$80,356,000
General Fund—Federal Appropriation . . . . . ((~~$154,388,000~~))
$153,570,000
General Fund—Private/Local Appropriation $22,043,000
TOTAL APPROPRIATION . . . . . ((~~$337,185,000~~))
$331,405,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services 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.

(b) $721,000 of the general fund—state appropriation for fiscal year 2012 and $721,000 of the general fund—state appropriation for fiscal year 2013 are for the department to fulfill its contracts with the school districts under chapter

28A.190 RCW to provide transportation, building space, and other support services as are reasonably necessary to support the educational programs of students living in residential habilitation centers.

(c) $250,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for allocation under contract to a school district in which a residential habilitation center (RHC) is located. The department must provide the school district with an allocation of $25,000 for each person under the age of 21 who between July 1, 2011, and June 30, 2013, is newly admitted to the RHC and newly enrolled in the district in which the RHC is located. The purpose of the allocation is to provide supplemental funding for robust supports and extraordinary costs for students who are newly admitted to the RHC and may be experiencing distress while transitioning to a new school environment.

(d) $600,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for operations of the Rainier school vision development committee, hereby established to create a long-range vision and development plan for the Rainier school.

(i) The committee shall consist of:

(A) Three members of the legislature representing the thirty-first legislative district;

(B) Two persons representing the cities of Enumclaw and Buckley;

(C) Two persons representing the chambers of commerce of the cities of Enumclaw and Buckley;

(D) Two persons representing the friends of Rainier school organization; and

(E) One person representing the Pierce county developmental disabilities board.

(ii) The committee shall create and submit to the legislature a long-range community vision and development plan for the efficient use of the Rainier school facility to best serve the needs of persons with developmental disabilities, including the establishment of a respite care center for families and other caregivers of persons with developmental disabilities.

(3) PROGRAM SUPPORT

General Fund—State Appropriation (FY 2012) . . . . . ((~~$1,380,000~~)) $1,382,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$1,371,000~~)) $1,366,000

General Fund—Federal Appropriation . . . . . ((~~$1,323,000~~)) $1,319,000

TOTAL APPROPRIATION . . . . . ((~~$4,074,000~~)) $4,067,000

(4) SPECIAL PROJECTS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$4,648,000~~)) $4,634,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$4,637,000~~)) $4,553,000

General Fund—Federal Appropriation . . . . . ((~~$9,575,000~~)) $9,588,000

General Fund—Private/Local Appropriation $998,000
TOTAL APPROPRIATION . . . . . ((~~$19,858,000~~))
$19,773,000

The appropriations in this subsection are subject to the following conditions and limitations:

Amounts appropriated in this subsection are for the purposes of transitioning clients with developmental disabilities into community settings. The department is authorized as needed to use these funds to either pay for clients residing within a residential habilitation center or for placements in the community. Pursuant to Second Substitute Senate Bill No. 5459 (services for people with developmental disabilities), funding in this subsection must be prioritized for the purpose of facilitating the consolidation and closure of Frances Haddon Morgan Center. The department shall use a person-centered approach in developing the discharge plan to assess each resident's needs and identify services the resident requires to successfully transition to the community or another residential habilitation center. The department is authorized to use any savings from this effort for the purpose of developing community resources to address the needs of clients with developmental disabilities who are in crisis or in need of respite. The department shall track the costs and savings of closing Frances Haddon Morgan Center and any investments into community placements and resources. The department shall provide a fiscal progress report to the legislature by December 5, 2011.

***Sec. 205 was partially vetoed. See message at end of chapter.**

Sec. 206. 2011 2nd sp.s. c 9 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 2012) . . . . . ((~~$781,995,000~~))
$791,493,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$804,465,000~~))
$809,338,000
General Fund—Federal Appropriation . . . . . ((~~$1,680,450,000~~))
$1,690,993,000
General Fund—Private/Local Appropriation $27,517,000
Traumatic Brain Injury Account—State Appropriation $3,388,000
Nursing Facility Quality Assurance Account—State
Appropriation. . . . . ((~~$88,071,000~~))
$88,000,000
TOTAL APPROPRIATION . . . . . ((~~$3,385,886,000~~))
$3,410,729,000

The appropriations in this section are subject to the following conditions and limitations:

(1) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall not exceed $170.37 for fiscal year 2012 and shall not exceed $171.43 for fiscal year 2013, including the rate add-ons described in (a) and (b) of this subsection. However, if the waiver requested from the federal centers for medicare and medicaid services in relation to the

safety net assessment created by Engrossed Substitute Senate Bill No. 5581 (nursing home payments) is for any reason not approved and implemented, the weighted average nursing facility payment rate shall not exceed $159.87 for fiscal year 2012 and shall not exceed $160.93 for fiscal year 2013. There will be no adjustments for economic trends and conditions in fiscal years 2012 and 2013. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the component rate allocations established in accordance with chapter 74.46 RCW. When no economic trends and conditions factor for either fiscal year is defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the component rate allocations established in accordance with chapter 74.46 RCW.

(a) Within the funds provided, the department shall continue to provide an add-on per medicaid resident day per facility not to exceed $1.57. The add-on shall be used to increase wages, benefits, and/or staffing levels for certified nurse aides; or to increase wages and/or benefits for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than $15 in calendar year 2008, according to cost report data. The add-on may also be used to address resulting wage compression for related job classes immediately affected by wage increases to low-wage workers. The department shall continue reporting requirements and a settlement process to ensure that the funds are spent according to this subsection.

(b) The department shall do a comparative analysis of the facility-based payment rates calculated on July 1, ((~~2011~~)) 2012, using the payment methodology defined in ((~~Engrossed Substitute Senate Bill No. 5581 (nursing home payments)~~)) chapter 74.46 RCW and as funded in the omnibus appropriations act, excluding the comparative add-on, acuity add-on, and safety net reimbursement, to the facility-based payment rates in effect June 30, 2010. If the facility-based payment rate calculated on July 1, ((~~2011~~)) 2012, is smaller than the facility-based payment rate on June 30, 2010, then the difference shall be provided to the individual nursing facilities as an add-on payment per medicaid resident day.

(c) During the comparative analysis performed in subsection (b) of this section, if it is found that the direct care rate for any facility calculated using the payment methodology defined in ((~~Engrossed Substitute Senate Bill No. 5581 (nursing home payments)~~)) chapter 74.46 RCW and as funded in the omnibus appropriations act, excluding the comparative add-on, acuity add-on, and safety net reimbursement, is greater than the direct care rate in effect on June 30, 2010, then the facility shall receive a ten percent direct care rate add-on to compensate that facility for taking on more acute clients than they have in the past.

(d) The department shall provide a medicaid rate add-on to reimburse the medicaid share of the skilled nursing facility safety net assessment as a medicaid allowable cost. The nursing facility safety net rate add-on may not be included in the calculation of the annual statewide weighted average nursing facility payment rate.

(e) If the waiver requested from the federal centers for medicare and medicaid services in relation to the safety net assessment created by Engrossed

Substitute Senate Bill No. 5581 (nursing home payments) is for any reason not approved and implemented, ((~~subsections~~)) (b), (c), and (d) of this subsection do not apply.

(2) After examining actual nursing facility cost information, the legislature finds that the medicaid nursing facility rates calculated pursuant to Engrossed Substitute Senate Bill No. 5581 (nursing home payments) provide sufficient reimbursement to efficiently and economically operating nursing facilities and bear a reasonable relationship to costs.

(3) In accordance with chapter 74.46 RCW, the department shall issue no additional certificates of capital authorization for fiscal year 2012 and no new certificates of capital authorization for fiscal year 2013 and shall grant no rate add-ons to payment rates for capital improvements not requiring a certificate of need and a certificate of capital authorization for fiscal years 2012 and 2013.

(4) The long-term care program may develop and pay enhanced rates for exceptional care to nursing homes for persons with traumatic brain injuries who are transitioning from hospital care. The cost per patient day for caring for these clients in a nursing home setting may be equal to or less than the cost of caring for these clients in a hospital setting.

(5) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients.

(6) $1,883,000 of the general fund—state appropriation for fiscal year 2012, $1,883,000 of the general fund—state appropriation for fiscal year 2013, and $3,766,000 of the general fund—federal appropriation are provided solely for state contributions for individual provider health care benefits. Pursuant to the collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270, the state shall contribute to the multiemployer health benefits trust fund ((~~$1.96~~)) $2.21 per paid hour worked by individual providers.

(7) ((~~$16,835,000 of the general fund—state appropriation for fiscal year 2012, $17,952,000 of the general fund—state appropriation for fiscal year 2013, and $34,786,000 of the general fund—federal appropriation are provided solely for home care agencies to purchase health coverage for home care providers. The department shall calculate and distribute payments for health care benefits to home care agencies at $558 per month for each worker who cares for publicly funded clients at 86 hours or more per month. In order to negotiate the most comprehensive health benefits package for its employees, each agency may determine benefit levels according to the hours an employee works providing state-funded personal care. Health benefits shall be offered to all employees who care for publicly funded clients for 86 hours per month or more. At a minimum, employees who care for publicly funded clients at 140 hours a month or greater must receive a comprehensive medical benefit. Benefits shall not be provided to employees who care for publicly funded clients at 85 hours or less per month or as interim respite workers. The department shall not pay an agency for benefits provided to an employee who otherwise receives health care coverage through other family members, other employment-based coverage, or military or veteran's coverage. The department shall require annually, each~~

~~home care agency to review each of its employee's available health coverage and to provide a written declaration to the department verifying that health benefits purchased with public funds are solely for employees that do not have other available coverage. Home care agencies may determine a reasonable employee co-premium not to exceed 20 percent of the total benefit cost.~~

~~(8) $2,063,000~~)) $2,449,000 of the general fund—state appropriation for fiscal year 2012, (($~~2,195,000~~)) $3,012,000 of the general fund—state appropriation for fiscal year 2013, and (($~~4,260,000~~)) $5,463,000 of the general fund—federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, for instructional costs associated with the training of individual providers. ((~~House Bill No. 1548 and Senate Bill No. 5473 (long-term care worker requirements) make statutory changes to the increased training requirements and therefore the state shall contribute to the partnership $0.17 per paid hour worked by all home care workers. This amount is pursuant to the collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.~~)) Contributions are funded at $0.22 per benefit-eligible paid hour worked by all home care workers. Expenditures for the purposes specified in this subsection shall not exceed the amounts provided in this subsection. However, if the governor and the service employees international union healthcare 775nw can reach agreement on repurposing funding that is currently provided in the individual provider collective bargaining agreement for new individual provider wages paid during training or other training related items, then expenditures for training trust contributions for individual providers may include the amounts provided in this subsection and the agreed upon repurposed funding. Funding in this section for purposes other than the individual provider collective bargaining agreement cannot be used for the purposes of this subsection (7). It is the intent of the legislature that the funding provided in this subsection, including any repurposed funding, is sufficient to cover the costs of individual provider training and therefore tuition or other entrance fees are not necessary.

(8) $338,550,000 of the general fund—state appropriation for fiscal year 2013 and $338,550,000 of the general fund—federal appropriation are provided solely for the department to provide personal care services to waiver and nonwaiver in-home clients. The department shall provide the legislature with a report by December 5, 2012, on the feasibility of converting the medicaid personal care program for in-home adults to a medicaid program as found in section 1915(i) of the federal social security act that utilizes the option for self-direction of individualized budgets. The department shall operate the personal care program within the amounts specifically provided.

(9) Individuals receiving services 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.

(10) The department shall eliminate the adult day health program under the state plan 1915(i) option and shall reestablish it under the long-term care home and community-based waiver.

(11) $4,588,000 of the general fund—state appropriation for fiscal year 2012, $4,559,000 of the general fund—state appropriation for fiscal year 2013,

and $9,237,000 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.

(12) $1,840,000 of the general fund—state appropriation for fiscal year 2012 and $1,877,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for operation of the volunteer services program. Funding shall be prioritized towards serving populations traditionally served by long-term care services to include senior citizens and persons with disabilities.

(13) In accordance with Engrossed Substitute House Bill No. 1277 (licensed settings for vulnerable adults), nursing facility fees are increased in fiscal year 2012 and adult family home fees are increased in fiscal year 2012 and fiscal year 2013 to support the costs of conducting licensure, inspection, and regulatory programs.

(a) The current annual renewal license fee for nursing facilities shall be increased to $359 per bed beginning in fiscal year 2012 and assumes $517,000 of the general fund—private/local appropriation. Nursing facilities shall receive a vendor rate increase of $0.08 per medicaid patient day to cover the license fee increase for publicly funded beds.

(b) The current annual renewal license fee for adult family homes shall be increased to $100 per bed beginning in fiscal year 2012 and assumes $1,449,000 of the general fund—private/local appropriation; and $175 per bed beginning in fiscal year 2013 and assumes $2,463,000 of the general fund—private/local appropriation. Adult family homes shall receive a corresponding vendor rate increase per medicaid patient day of $0.22 in fiscal year 2012 and $0.43 in fiscal year 2013 ((~~to cover the license fee increase for publicly funded beds~~)), or the amount necessary to fully fund the license fee increase for publicly funded beds, pursuant to the most recent bed estimates maintained by the department.

(c) Beginning in fiscal year 2012, a processing fee of $2,750 shall be charged to each adult family home when the home is initially licensed. This fee is nonrefundable.

(d) $72,000 of the general fund—state appropriation for fiscal year 2012, $708,000 of the general fund—private/local appropriation and $708,000 of the general fund—federal appropriation are provided solely to implement sections 501 through 503 of Engrossed Substitute House Bill No. 1277 (licensed settings for vulnerable adults). The department shall use additional investigative resources to address complaints about provider practices as well as alleged abuse, neglect, abandonment, and exploitation of residents in adult family homes. The department shall develop a statewide internal quality review and accountability program to improve the accountability of staff and the consistent application of investigative activities, and shall convene a quality assurance panel to review problems in the quality of care in adult family homes.

(14) $3,316,000 of the traumatic brain injury account—state appropriation is provided solely to continue services for persons with traumatic brain injury

(TBI) as defined in chapter 143, Laws of 2011 (traumatic brain injury strategic partnership).

(15) The department is authorized to place long-term care clients residing in nursing homes and paid for with state only funds into less restrictive community care settings while continuing to meet the client's care needs.

(16) The department shall participate in the work group established by the department of corrections in section 220(2) of this act to review release options for elderly and infirm offenders.

Sec. 207. 2011 2nd sp.s. c 9 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 2012) . . . . . ((~~$487,305,000~~))
$415,553,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$503,362,000~~))
$438,483,000

General Fund—Federal Appropriation . . . . . ((~~$1,167,467,000~~))
$1,174,416,000

General Fund—Private/Local Appropriation $30,592,000

TOTAL APPROPRIATION . . . . . ((~~$2,188,726,000~~))
$2,059,044,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ((~~$258,880,000~~)) $195,410,000 of the general fund—state appropriation for fiscal year 2012, ((~~$297,296,000~~)) $235,808,000 of the general fund—state appropriation for fiscal year 2013, and ((~~$710,173,000~~)) $725,586,000 of the general fund—federal appropriation are provided solely for all components of the WorkFirst program. Under section 2 of Engrossed Substitute Senate Bill No. 5921 (social services programs), the amounts in this subsection assume that any participant in the temporary assistance for needy families where their participation is suspended and does not volunteer to participate in WorkFirst services or unsubsidized employment does not receive child care subsidies or WorkFirst subsidies as a condition of the suspension. Within the amounts provided for the WorkFirst program, the department may provide assistance using state-only funds for families eligible for temporary assistance for needy families.

(a) Within the amounts provided for WorkFirst in this subsection, the department shall continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in Engrossed House Bill No. 2262 (WorkFirst and child care) and RCW 74.08A.410.

(b) The department may establish a career services work transition program.

(c) ((~~Within the amounts provided in this subsection, $1,414,000 of the general fund—state appropriation for fiscal year 2012 and $5,150,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the implementation and administration of the electronic benefit transfer system under section 12 of Engrossed Substitute Senate Bill No. 5921 (social services~~

~~programs). The department shall transfer these amounts to the department of early learning for the implementation and administration of the project.~~

~~(d)~~)) Within amounts appropriated in this section, the legislature expressly mandates that the department exercise its authority, granted in 1997 under RCW 74.08A.290, to contract for work activities services pursuant to that statutory authority and RCW 41.06.142(3).

(((~~(e)~~)) (d) The department shall create a temporary assistance for needy families budget structure that allows for more transparent tracking of budget units and subunits of expenditures where these units and subunits are mutually exclusive from other department budget units. The budget structure shall include budget units for the following: Grants, child care, WorkFirst activities, and administration of the program.

(2)(((~~(a) $11,825,000 of the general fund—federal appropriation is provided solely for a contingency reserve in the event the temporary assistance for needy families cash benefit is projected to exceed forecasted amounts by more than one percent. The department shall only expend an amount equal to the forecasted over expenditure. For purposes of this subsection, the temporary assistance forecast shall be completed every quarter and follow a similar schedule of the caseload forecast council forecasts.~~

~~(b) If sufficient savings in subsection (1) of this section are achieved, the department of early learning shall increase the number of child care slots available for the working connections child care program.~~

~~(3) $23,494,000~~)) $23,679,000 of the general fund—state appropriation for fiscal year 2012, in addition to supplemental security income recoveries, is provided solely for financial assistance and other services to recipients in the program established in section 4, chapter 8, Laws of 2010 1st sp. sess., until the program terminates on October 31, 2011.

(((~~(4)~~)) (3)(a) ((~~$13,086,000~~)) $12,457,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$24,788,000~~)) $21,959,000 of the general fund—state appropriation for fiscal year 2013, in addition to supplemental security income recoveries, are provided solely for the programs created in Engrossed Substitute House Bill No. 2082 (essential needs and assistance program) beginning November 1, 2011.

(b) The department shall review clients receiving services through the aged, blind, or disabled assistance program, to determine whether they 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 continue the interagency agreement with the department of veterans' affairs to establish a process for referral of veterans who may be eligible for veterans' services. This agreement must include out-stationing department of veterans' affairs staff in selected community service office locations in King and Pierce counties to facilitate applications for veterans' services.

(((~~(5)~~))) (4) $1,657,000 of the general fund—state appropriation for fiscal year 2012 and $1,657,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for naturalization services.

(((~~(6)~~))) (5) $2,366,000 of the general fund—state appropriation for fiscal year 2012 is provided solely for refugee employment services, of which

$1,774,000 is provided solely for the department to pass through to statewide refugee assistance organizations for limited English proficiency pathway services; and $2,366,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for refugee employment services, of which $1,774,000 is provided solely for the department to pass through to statewide refugee assistance organizations for limited English proficiency pathway services.

((~~(7)~~)) (6) On December 1, 2011, and annually thereafter, the department must report to the legislature on all sources of funding available for both refugee and immigrant services and naturalization services during the current fiscal year and the amounts expended to date by service type and funding source. The report must also include the number of clients served and outcome data for the clients.

((~~(8)~~)) (7) To ensure expenditures remain within available funds appropriated in this section, the legislature establishes the benefit under the state food assistance program, pursuant to RCW 74.08A.120, to be fifty percent of the federal supplemental nutrition assistance program benefit amount.

Sec. 208. 2011 2nd sp.s. c 9 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 2012) . . . . . ((~~$74,287,000~~))
$73,742,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$74,422,000~~))
$71,218,000
General Fund—Federal Appropriation . . . . . ((~~$141,514,000~~))
$184,401,000
General Fund—Private/Local Appropriation . . . . . ((~~$2,086,000~~))
$13,486,000
Criminal Justice Treatment Account—State
Appropriation. $20,748,000
Problem Gambling Account—State Appropriation $1,448,000
TOTAL APPROPRIATION . . . . . ((~~$314,505,000~~))
$365,043,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the amounts appropriated in this section, the department may contract with the University of Washington and community-based providers for the provision of the parent-child assistance program. For all contractors, indirect charges for administering the program shall not exceed ten percent of the total contract amount.

(2) Within the amounts appropriated in this section, the department shall continue to provide for chemical dependency treatment services for adult medicaid eligible, pregnant and parenting women, disability lifeline, and alcoholism and drug addiction treatment and support act, and medical care services clients.

(3) In accordance with RCW 70.96A.090 and 43.135.055, the department is authorized to increase fees for the review and approval of treatment programs in fiscal years 2012 and 2013 as necessary to support the costs of the regulatory

program. The department's fee schedule shall have differential rates for providers with proof of accreditation from organizations that the department has determined to have substantially equivalent standards to those of the department, including but not limited to the joint commission on accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, and the council on accreditation. To reflect the reduced costs associated with regulation of accredited programs, the department's fees for organizations with such proof of accreditation must reflect the lower cost of licensing for these programs than for other organizations which are not accredited.

(4) $3,500,000 of the general fund—federal appropriation (from the substance abuse prevention and treatment federal block grant) is provided solely for the continued funding of existing county drug and alcohol use prevention programs.

(5) Within amounts appropriated in this section, the department is required to increase federal match available for intensive inpatient services. During fiscal year 2013, the department shall shift contracts for a minimum of 32 intensive inpatient beds currently provided in settings that are considered institutions for mental diseases to two or more facilities with no more than 16 beds that are able to claim federal match for services provided to medicaid clients or individuals covered under the department's section 1115 medicaid waiver. The department is authorized to conduct a request for proposal process to fulfill this requirement. By December 1, 2012, the department shall provide a plan to the office of financial management and to the relevant fiscal and policy committees of the legislature for transitioning all remaining intensive inpatient beds currently provided in settings that are considered institutions for mental diseases into facilities with no more than 16 beds by June 2017. The plan shall identify the maximum number of additional beds that can be transitioned into facilities with no more than 16 beds during the 2013-2015 fiscal biennium and the remaining number that will be transitioned during the 2015-2017 fiscal biennium, a timeline and process for accomplishing this, and a projection of the related general fund—state savings for each biennium.

(6) The amounts appropriated in this section include reductions of $303,000 in the general fund—state appropriation for fiscal year 2012 and $1,815,000 in the general fund—state appropriation for fiscal year 2013. The department must apply this reduction across all levels of chemical dependency residential treatment services excluding services contracted through the counties, services provided to pregnant and parenting women, services provided to juveniles, and services provided to parents in dependency proceedings.

Sec. 209. 2011 2nd sp.s. c 9 s 209 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—VOCATIONAL REHABILITATION PROGRAM

General Fund—State Appropriation (FY 2012) . . . . . ((~~$10,874,000~~))
$10,854,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$10,861,000~~))
$10,401,000

General Fund—Federal Appropriation . . . . . ((~~$105,091,000~~))
$105,060,000

Telecommunications Devices for the Hearing and
Speech Impaired—State Appropriation $2,766,000
TOTAL APPROPRIATION . . . . . ((~~$129,592,000~~))
$129,081,000

The appropriations in this section are subject to the following conditions and limitations: $480,000 of the telecommunications devices for the hearing and speech impaired account—state appropriation is provided solely for the office of deaf and hard of hearing to contract for services that provide employment support and help with life activities for deaf-blind individuals in King county.

Sec. 210. 2011 2nd sp.s. c 9 s 210 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—SPECIAL COMMITMENT PROGRAM

General Fund—State Appropriation (FY 2012) . . . . . ((~~$47,719,000~~))
$48,167,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$46,292,000~~))
$36,128,000
TOTAL APPROPRIATION . . . . . ((~~$94,011,000~~))
$84,295,000

***Sec. 211.** 2011 2nd sp.s. c 9 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 2012) . . . . . ((~~$26,125,000~~))
$26,069,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$24,586,000~~))
$24,474,000
General Fund—Federal Appropriation . . . . . ((~~$39,223,000~~))
$39,550,000
General Fund—Private/Local Appropriation $2,116,000
Performance Audits of State Government—State
Appropriation $4,812,000
TOTAL APPROPRIATION . . . . . ((~~$96,862,000~~))
$97,021,000

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 2012 and $300,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Washington state mentors program to continue its public-private partnerships to provide technical assistance and training to mentoring programs that serve at-risk youth.

(2) $445,000 of the general fund—state appropriation for fiscal year 2012 and $445,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for funding of the teamchild project.

(3) $178,000 of the general fund—state appropriation for fiscal year 2012 and $178,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the juvenile detention alternatives initiative.

(4) $4,812,000 of the performance audits of state government—state appropriation is provided solely for support and expansion of the division of fraud investigation. The division shall conduct investigatory and enforcement activities for all department programs, including the child support and TANF programs.

(5) $1,400,000 of the general fund—state appropriation for fiscal year 2012 is provided solely for the department to distribute as support to community public health and safety networks that have a history of providing training and services related to adverse childhood experiences. Distribution of these funds is contingent upon securing funding from a private entity or entities to provide one dollar in matching funds for each dollar in state funds received by a network so that the funding received by a community public health and safety network will be equal portions of state and private funding.

(6) $250,000 of the general fund—state appropriation for fiscal year 2013 is for the department to assist in the development of a public-private initiative that promotes innovative new approaches to prevention and mitigation of adverse childhood experiences. The department shall, as part of the transition to a public-private initiative that leverages the community networks' community capacity building model and infrastructure: (a) Assist community public health and safety networks in identifying and obtaining funding opportunities to assist local communities in achieving the purposes of networks and further developing community capacity; and (b) maintain centralized administrative services for the community network system in the office of the secretary to facilitate cross-agency and multi-sector partnership with community networks.

(7) $250,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for a grant program focused on criminal street gang prevention and intervention. The Washington state partnership council on juvenile justice may award grants under this subsection. The council shall give priority to applicants who have demonstrated the greatest problems with criminal street gangs. Applicants composed of, at a minimum, one or more local governmental entities and one or more nonprofit, nongovernmental organizations that have a documented history of creating and administering effective criminal street gang prevention and intervention programs may apply for funding under this subsection.

(8) $113,000 of the general fund—state appropriation for fiscal year 2013 and $105,000 of the general fund—federal appropriation are provided solely for staffing costs associated with implementation of Engrossed Second Substitute House Bill No. 2536 (children services/delivery). The amounts provided in this subsection must be used for coordinated evidence-based practice implementation amongst the department's programs providing mental health, child welfare, and juvenile justice services to children. If Engrossed Second Substitute House Bill No. 2536 (children services/delivery) is not enacted by June 30, 2012, the amounts provided in this subsection shall lapse.

***Sec. 211 was partially vetoed. See message at end of chapter.**

Sec. 212. 2011 2nd sp.s. c 9 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 2012) . . . . . ((~~$62,778,000~~))
$62,140,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$61,927,000~~))
$46,303,000
General Fund—Federal Appropriation . . . . . ((~~$58,400,000~~))
$53,049,000
TOTAL APPROPRIATION . . . . . ((~~$183,105,000~~))
$161,492,000

The appropriations in this section are subject to the following conditions and limitations:

$469,000 of the general fund—state appropriation for fiscal year 2011 and $270,000 of the general fund—state appropriation for fiscal year 2012 are provided solely for implementation of Engrossed Substitute Senate Bill No. 5921 (social services programs). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

***Sec. 213.** 2011 2nd sp.s. c 9 s 213 (uncodified) is amended to read as follows:

FOR THE STATE HEALTH CARE AUTHORITY

General Fund—State Appropriation (FY 2012) . . . . . ((~~$2,130,229,000~~))
$2,034,296,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$2,185,617,000~~))
$2,031,185,000
General Fund—Federal Appropriation . . . . . ((~~$5,389,627,000~~))
$5,307,323,000
General Fund—Private/Local Appropriation . . . . . ((~~$45,512,000~~))
$62,597,000
Emergency Medical Services and Trauma Care Systems
Trust Account—State Appropriation $15,077,000
Hospital Safety Net Assessment Fund—State
Appropriation . . . . . ((~~$394,905,000~~))
$434,087,000
State Health Care Authority Administration Account—
State Appropriation . . . . . ((~~$34,118,000~~))
$34,040,000
Basic Health Plan Stabilization Account—
State Appropriation $44,000,000
Medical Aid Account—State Appropriation $529,000
Medicaid Fraud Penalty Account—State Appropriation $9,200,000
TOTAL APPROPRIATION . . . . . ((~~$10,239,614,000~~))
$9,972,334,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations to the authority in this act shall be expended for the purposes and in the amounts specified in this act. To the extent that appropriations in this section are insufficient to fund actual expenditures in excess of caseload forecasts and utilization assumptions, the authority, after May 1, 2012, may transfer general fund—state appropriations for fiscal year 2012 that

are provided solely for a specified purpose. The authority 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. 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.

(2) 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 eligible to participate in the basic health plan as subsidized enrollees 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)~~)) (3) The health care authority shall require organizations and individuals that are paid to deliver basic health plan services and that 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)~~)) (4)(a) $1,200,000 of the general fund—state appropriation for fiscal year 2012 is provided solely to plan the implementation of a system of consolidated public school employee health benefits purchasing.

It is the intent of the legislature to improve the administration, transparency, and equity in delivering a K-12 employees' health benefits system. In addition, the legislature intends that any cost savings that result from changes to K-12 health benefits be dedicated to public schools.

To further this legislative intent, the state health care authority shall develop a plan to implement a consolidated health benefits' system for K-12 employees for the 2013-14 school year. The health care authority shall deliver a report to the legislature by December 15, 2011, that sets forth the implementation plan to the ways and means committees of the house of representatives and the senate.

(b) The report prepared by the health care authority shall compare and contrast the costs and benefits, both long and short term, of:

(i) The current K-12 health benefits system;

(ii) A new K-12 employee benefits pool; and

(iii) Enrolling K-12 employees into the health benefits pool for state employees.

(c) In addition to the implementation plan, the report shall include the following information:

(i) The costs and benefits of the current K-12 health benefits system;

(ii) The costs and benefits of providing a new statewide K-12 employees' health benefits pool to school districts and school employees;

(iii) The costs and benefits of enrolling K-12 employees into the existing health benefits pool for state employees;

(iv) Recommendations of ways to limit administrative duplication and costs, improve transparency to employees, the legislature, and the public and assure equity among beneficiaries of publicly provided employee health benefits;

(v) Recommendations for standardizing benefit packages and purchasing efforts in a manner that seeks to maximize funding and equity for all school employees;

(vi) Recommendations regarding the use of incentives, including how changes to state health benefit allocations could provide employees with benefits that would encourage participation;

(vii) Recommendations regarding the implementation of a new K-12 employee benefit plan, with separate options for voluntary participation and mandatory statewide participation;

(viii) Recommendations regarding methods to reduce inequities between individual and family coverage;

(ix) Consolidation of the purchasing and budget accountability for school employee benefits to maximize administrative efficiency and leverage existing skills and resources; and

(x) Other details the health care authority deems necessary, including but not limited to recommendations on the following:

(A) Approaches for implementing the transition to a statewide pool, including administrative and statutory changes necessary to ensure a successful transition, and whether the pool should be separate from, or combined with, the public employees' benefits pool;

(B) The structure of a permanent governing group to provide ongoing oversight to the consolidated pool, in a manner similar to the public employees benefits board functions for employee health benefits, including statutory duties and authorities of the board; and

(C) Options for including potential changes to: Eligibility standardization, the public employees benefits risk pools, the movement of school employee retirees into the new K-12 pool or pools, and the movement of educational service district employees into the new K-12 pool or pools.

(d) In determining its costs and benefits of a new statewide K-12 employees' health benefits pool for school districts and school employees, the health care authority shall assume the following:

(i) School district enrollees must constitute an entire bargaining unit, or an entire group of nonrepresented employees;

(ii) Staffing and administration for benefits purchasing shall be provided by the health care authority; and

(iii) The new K-12 pool would operate on a schedule that coordinates with the financing and enrollment schedule used for school districts.

(e) The office of the superintendent of public instruction and the office of the insurance commissioner shall provide information and technical assistance to the health care authority as requested by the health care authority. The health care authority shall not implement the new school employee benefits pool until authorized to do so by the legislature.

((~~(4)~~)) (5) 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).

((~~(5)~~)) (6) Enrollment in the subsidized basic health plan shall be limited to only include persons who qualify as subsidized enrollees as defined in RCW 70.47.020 and who (a) qualify for services under 1115 medicaid demonstration project number 11-W-00254/10; or (b) are foster parents licensed under chapter 74.15 RCW.

((~~(6)~~)) (7) $23,700,000 of the general fund—federal appropriation is provided solely for planning and implementation of a health benefit exchange under the federal patient protection and affordable care act. Within the amounts provided in this subsection, funds used by the authority for information technology projects are conditioned on the authority satisfying the requirements of Engrossed Second Substitute Senate Bill No. 5931 (central service agencies).

((~~(7)~~)) (8) Based on quarterly expenditure reports and caseload forecasts, if the health care authority estimates that expenditures for the medical assistance program will exceed the appropriations, the health care authority 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.

((~~(8)~~)) (9) In determining financial eligibility for medicaid-funded services, the health care authority is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

((~~(9)~~)) (10) 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.

((~~(10)~~)) (11) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the health care authority 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.

((~~(11)~~)) (12) $4,261,000 of the general fund—state appropriation for fiscal year 2012, $4,261,000 of the general fund—state appropriation for fiscal year 2013, and $8,522,000 of the general fund—federal appropriation are provided solely for low-income disproportionate share hospital payments under RCW 74.09.730(1)(a).

((~~(12) $5,905,000 of the general fund—state appropriation for fiscal year 2012, $5,905,000 of the general fund—state appropriation for fiscal year 2013, and $11,810,000 of the general fund—federal appropriation are provided solely for nonrural indigent assistance disproportionate share hospital payments in accordance with RCW 74.09.730(1).~~

~~(13) $665,000 of the general fund—state appropriation for fiscal year 2012, $665,000 of the general fund—state appropriation for fiscal year 2013, and $1,330,000 of the general fund—federal appropriation are provided solely for small rural indigent assistance disproportionate share hospital payments in accordance with RCW 74.09.730(1).~~

~~(14)~~)) (13) $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. The supplemental payments are subject to retrospective interim and final cost settlements based on the nursing homes' as-filed and final medicare cost reports. The timing of the interim and final cost settlements shall be at the health care authority's discretion. During either the interim cost settlement or the final cost settlement, the health care authority shall recoup from the public hospital districts the supplemental payments that exceed the medicaid cost limit and/or the medicare upper payment limit. The health care authority shall apply federal rules for identifying the eligible incurred medicaid costs and the medicare upper payment limit.

((~~(15)~~)) (14) The health care authority shall continue the inpatient hospital certified public expenditures program for the 2011-2013 fiscal 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. The health care authority shall submit reports to the governor and legislature by November 1, 2011, and by November 1, 2012, that evaluate whether savings continue to exceed costs for this program. If the certified public expenditures (CPE) program in its current form is no longer cost-effective to maintain, the health care authority shall submit a report to the governor and legislature detailing cost-effective alternative uses of local, state, and federal resources as a replacement for this program. During fiscal year 2012 and fiscal year 2013, hospitals in the program shall be paid and shall retain one hundred percent of the federal portion of the allowable hospital cost for each medicaid inpatient fee-for-service claim payable by medical assistance and one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Inpatient medicaid payments shall be established using an allowable methodology that approximates the cost of claims submitted by the hospitals. Payments made to each hospital in the program in each fiscal year of the biennium shall be compared to a baseline amount. The baseline amount will be determined by the total of (a) the inpatient claim payment amounts that would have been paid during the fiscal year had the hospital not been in the CPE program based on the reimbursement rates developed, implemented, and consistent with policies approved in the 2011-13 biennial operating appropriations act and in effect on July 1, 2011, (b) one half

of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005, and (c) all of the other disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 to the extent the same disproportionate share hospital programs exist in the 2011-13 biennium. If payments during the fiscal year exceed the hospital's baseline amount, no additional payments will be made to the hospital except the federal portion of allowable disproportionate share hospital payments for which the hospital can certify allowable match. If payments during the fiscal year are less than the baseline amount, the hospital will be paid a state grant equal to the difference between payments during the fiscal year and the applicable baseline amount. Payment of the state grant shall be made in the applicable fiscal year and distributed in monthly payments. The grants will be recalculated and redistributed as the baseline is updated during the fiscal year. The grant payments are subject to an interim settlement within eleven months after the end of the fiscal year. A final settlement shall be performed. To the extent that either settlement determines that a hospital has received funds in excess of what it would have received as described in this subsection, the hospital must repay the excess amounts to the state when requested. ((~~$24,677,000~~)) $8,102,000 of the general fund—state appropriation for fiscal year 2012, of which $6,570,000 is appropriated in section 204(1) of this act, and ((~~$21,531,000~~)) $3,162,000 of the general fund—state appropriation for fiscal year 2013, of which $6,570,000 is appropriated in section 204(1) of this act, are provided solely for state grants for the participating hospitals. CPE hospitals will receive the inpatient and outpatient reimbursement rate restorations in RCW 74.60.080 and rate increases in RCW 74.60.090 funded through the hospital safety net assessment fund rather than through the baseline mechanism specified in this subsection.

((~~(16)~~)) (15) The health care authority shall seek public-private partnerships and federal funds that are or may become available to provide on-going support for outreach and education efforts under the federal children's health insurance program reauthorization act of 2009.

((~~(17)~~)) (16) The health care authority shall target funding for maternity support services towards pregnant women with factors that lead to higher rates of poor birth outcomes, including hypertension, a preterm or low birth weight birth in the most recent previous birth, a cognitive deficit or developmental disability, substance abuse, severe mental illness, unhealthy weight or failure to gain weight, tobacco use, or African American or Native American race. The health care authority shall prioritize evidence-based practices for delivery of maternity support services. To the extent practicable, the health care authority shall develop a mechanism to increase federal funding for maternity support services by leveraging local public funding for those services.

((~~(18)~~)) (17) For children with family incomes above 200 percent of the federal poverty level in the state-funded children's health program for children who are not eligible for coverage under the federally funded children's health insurance program, premiums shall be set every two years in an amount equal to the average state-only share of the per capita cost of coverage in the state-funded children's health program for children in families with incomes at or less than two hundred percent of the federal poverty level.

(((~~(19) $704,000 of the general fund—state appropriation for fiscal year 2012, $726,000 of the general fund—state appropriation for fiscal year 2013, and $1,431,000 of the general fund—federal appropriation are provided solely for~~)) (18) Within the amounts appropriated in this section, the health care authority shall provide disproportionate share hospital payments to hospitals that provide services to children in the children's health program who are not eligible for services under Title XIX or XXI of the federal social security act due to their citizenship status.

(((~~(20) $998,000~~)) (19) $859,000 of the general fund—state appropriation for fiscal year 2012, $979,000 of the general fund—state appropriation for fiscal year 2013, and ((~~$1,980,000~~)) $1,841,000 of the general fund—federal appropriation are provided solely to increase prior authorization activities for advanced imaging procedures.

(((~~(21) $249,000~~)) (20) $196,000 of the general fund—state appropriation for fiscal year 2012, $246,000 of the general fund—state appropriation for fiscal year 2013, and ((~~$495,000~~)) $442,000 of the general fund—federal appropriation are provided solely to increase prior authorization activities for surgical procedures, which may include orthopedic procedures, spinal procedures and interventions, and nerve procedures.

(((~~(22)~~))) (21) $300,000 of the general fund—private/local appropriation and $300,000 of the general fund—federal appropriation are provided solely for a prescriptive practices improvement collaborative focusing upon atypical antipsychotics and other medications commonly used in the treatment of severe and persistent mental illnesses among adults. The project shall promote collaboration among community mental health centers, other major prescribers of atypical antipsychotic medications to adults enrolled in state medical assistance programs, and psychiatrists, pharmacists, and other specialists at the University of Washington department of psychiatry and/or other research universities. The collaboration shall include patient-specific prescriber consultations by psychiatrists and pharmacists specializing in treatment of severe and persistent mental illnesses among adults; production of profiles to assist prescribers and clinics in tracking their prescriptive practices and their patients' medication use and adherence relative to evidence-based practices guidelines, other prescribers, and patients at other clinics; and in-service seminars at which participants can share and increase their knowledge of evidence-based and other effective prescriptive practices. The health care authority shall enter into an interagency agreement with the office of the attorney general for expenditure of $300,000 of the state's proceeds of the *cy pres* settlement in *State of Washington v. AstraZeneca* (Seroquel) for this purpose.

(((~~(23)~~))) (22) $570,000 of the general fund—private/local appropriation is provided solely for continued operation of the partnership access line for child mental health consultations. The health care authority shall enter into an interagency agreement with the office of the attorney general for expenditure of $570,000 of the state's proceeds of the *cy pres* settlement in *State of Washington v. AstraZeneca* (Seroquel) for this purpose.

(((~~(24)~~))) (23) $80,000 of the general fund—state appropriation for fiscal year 2012, $80,000 of the general fund—state appropriation for fiscal year 2013, and $160,000 of the general fund—federal appropriation are provided solely to fund

the Tacoma-Pierce county health department for access and outreach activities to reduce infant mortality.

((~~(25)~~)) (24) $75,000 of the general fund—state appropriation for fiscal year 2012, $75,000 of the general fund—state appropriation for fiscal year 2013, and $150,000 of the general fund—federal appropriation are provided solely to assist with development and implementation of evidence-based strategies regarding the appropriate, safe, and effective role of C-section surgeries and early induced labor in births and neonatal care. The strategies shall be identified and implemented in consultation with clinical research specialists, physicians, hospitals, advanced registered nurse practitioners, and organizations concerned with maternal and child health.

((~~(26) $2,400,000 of the general fund—state appropriation for fiscal year 2012, $2,435,000 of the general fund—state appropriation for fiscal year 2013, $7,253,000 of the general fund—private/local appropriation, and $12,455,000 of the general fund—federal appropriation are provided solely for continued provision of~~)) (25) Within the amounts appropriated in this section, the health care authority shall continue to provide school-based medical services by means of an intergovernmental transfer arrangement. Under the arrangement, the state shall provide forty percent and school districts sixty percent of the nonfederal matching funds required for receipt of federal medicaid funding for the service.

((~~(27)~~)) (26) $263,000 of the general fund—state appropriation for fiscal year 2012, $88,000 of the general fund—state appropriation for fiscal year 2013, and $351,000 of the general fund—federal appropriation are provided solely for development and submission to the federal government by October 1, 2011, of a demonstration project proposal as provided in Substitute Senate Bill No. 5596 (medicaid demonstration waiver).

((~~(28) $5,600,000 of the general fund—state appropriation for fiscal year 2012, $4,094,000 of the general fund—state appropriation for fiscal year 2013, and $11,332,000 of the general fund—federal appropriation are provided solely for~~)) (27) Within the amounts appropriated in this section, the health care authority shall provide spoken-language interpreter services. The authority shall develop and implement a new model for delivery of such services no later than ((~~January~~)) July 1, 2012. The model shall include:

(a) Development by the authority in consultation with subject-area experts of guidelines to assist medical practitioners identify the circumstances under which it is appropriate to use telephonic or video-remote interpreting;

(b) The requirement that the state contract with delivery organizations, including foreign language agencies, who employ or subcontract only with language access providers or interpreters working in the state who are certified or authorized by the state. When a state-certified or state-authorized in-state language access provider or interpreter is not available, the delivery organization, including foreign language agencies, may use a provider with other certifications or qualifications deemed to meet state standards, including interpreters in other states; and

(c) Provision of a secure, web-based tool that medical practitioners will use to schedule appointments for interpreter services and to identify the most appropriate, cost-effective method of service delivery in accordance with the state guidelines.

Nothing in this subsection affects the ability of health care providers to provide interpretive services through employed staff or through telephone and video remote technologies when not reimbursed directly by the department. The amounts in this subsection do not include federal administrative funds provided to match nonstate expenditures by local health jurisdictions and governmental hospitals.

((~~(29)~~)) (28) In its procurement of contractors for delivery of medical managed care services for nondisabled, nonelderly persons, the medical assistance program shall (a) place substantial emphasis upon price competition in the selection of successful bidders; and (b) not require delivery of any services that would increase the actuarial cost of service beyond the levels included in current healthy options contracts.

((~~(30)~~)) (29) $1,430,000 of the general fund—state appropriation for fiscal year 2012, $1,430,000 of the general fund—state appropriation for fiscal year 2013, and $2,860,000 of the general fund—federal appropriation are provided solely to pay federally-designated rural health clinics their standard encounter rate for prenatal and well-child visits, whether delivered under a managed care contract or fee-for-service. In reconciling managed care enhancement payments for calendar years 2009 and 2010, the department shall treat well-child and prenatal care visits as encounters subject to the clinic's encounter rate.

((~~(31)~~)) (30) $280,000 of the general fund—state appropriation for fiscal year 2012 and $282,000 of the general fund—federal appropriation are provided solely to increase utilization management of drugs and drug classes for which there is evidence of over-utilization, off-label use, excessive dosing, duplicative therapy, or opportunities to shift utilization to less expensive, equally effective formulations.

((~~(32)~~)) (31) $70,000 of the general fund—state appropriation for fiscal year 2012, $70,000 of the general fund—state appropriation for fiscal year 2013, and $140,000 of the general fund—federal appropriation are provided solely to continue operation by a nonprofit organization of a toll-free hotline that assists families to learn about and enroll in the apple health for kids program.

((~~(33)~~)) (32) $400,000 of the general fund—state appropriation for fiscal year 2012 and $400,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the local outreach, case management, and coordination with dental providers needed to execute the access to baby and child dentistry program, which provides dental care to Medicaid eligible children up to age six.

((~~(34) $1,868,000 of the general fund—state appropriation for fiscal year 2012, $1,873,000 of the general fund—state appropriation for fiscal year 2013, and $3,154,000 of the general fund—federal appropriation are provided solely to~~)) (33) Within the amounts appropriated in this section, the health care authority shall continue to provide dental services to pregnant women. Services shall include preventive, routine, and emergent dental care.

((~~(35)~~)) (34) $395,000 of the general fund—state appropriation for fiscal year 2012, $395,000 of the general fund—state appropriation for fiscal year 2013, and $790,000 of the general fund—federal appropriation are provided solely for continued operation of the dental education in care of persons with disabilities (DECOD) program at the University of Washington.

(((~~(36) $112,000~~)) (35) $159,000 of the general fund—state appropriation for fiscal year 2012, ((~~$112,000 of the general fund—state appropriation for fiscal year 2013,~~)) $302,000 of the general fund—private/local appropriation, and ((~~$1,928,000~~)) $146,072,000 of the general fund—federal appropriation are provided solely for the provider incentive program and other initiatives related to the health information technology Medicaid plan. The general fund—private/local appropriation in this subsection shall be funded with proceeds from settlements in the case of *State of Washington vs. GlaxoSmithKline*. The authority and the office of the attorney general shall enter an interagency agreement regarding use of these funds.

(((~~(37)~~))) (36) $2,926,000 of the general fund—local appropriation and $2,928,000 of the general fund—federal appropriation are provided solely to support medical airlift services.

(((~~(38)~~))) (37) The authority shall collect data on enrollment and utilization to study whether the expansion of family planning coverage under Substitute Senate Bill No. 5912 is reducing state medical expenditures by reducing unwanted pregnancies. The authority shall report its findings to the legislature by December 1, 2012.

(((~~(39)~~))) (38) $480,000 of the general fund—state appropriation for fiscal year 2012, $480,000 of the general fund—state appropriation for fiscal year 2013, and $824,000 of the general fund—federal appropriation are provided solely for customer services staff. The authority will attempt to improve the phone answer rate to 40 percent and reduce the response times to written questions to ten days for clients and 25 days for providers. The authority will report to the legislature on its progress toward achieving these goals by January 1, 2012. If the authority has not achieved these goals by July 1, 2012, then the authority shall reduce expenditures on management staff in order to increase expenditures on customer service staff until the goals are achieved.

(((~~(40)~~))) (39) The department shall purchase a brand name drug when it determines that the cost of the brand name drug after rebates is less than the cost of generic alternatives and that purchase of the brand rather than generic version can save at least $250,000. The department may purchase generic alternatives when changes in market prices make the price of the brand name drug after rebates more expensive than the generic alternatives.

((~~(41) The department shall collaborate closely with the Washington state hospital and medical associations in identification of the diagnostic codes and retroactive review procedures that will be used to determine whether an emergency room visit is a nonemergency condition to assure that conditions that require emergency treatment continue to be covered.~~))

(40) The authority, in collaboration with the department of social and health services, the department of health, the Washington state hospital association, the Puget Sound health alliance, the Washington association of community and migrant health centers, and the forum, a collaboration of health carriers, physicians, and hospitals in Washington state, shall design a system of rural health system access and quality incentive payments. The incentive payments must be linked to explicit performance measures that consider not only services provided by health care providers, but also the role that providers might play in the rural health delivery systems in their communities, including the provision of long-term care services. In designing

the incentive payment system, the authority shall consider the department of health's necessary provider criteria for critical access hospitals, the quality measures used to determine quality incentive payments under RCW 74.60.130, and any other performance measures that would promote access and quality in rural health systems. The authority, in conjunction with those groups identified in this subsection, shall develop parameters for determining criteria for increased payment, alternative payment methodologies, or other incentives for those providers that improve and achieve sustained improvement with respect to the measures. The design of the system shall be submitted to the relevant policy and fiscal committees of the legislature by December 15, 2012.

(41) $150,000 of the general fund—state appropriation for fiscal year 2012 and $1,964,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to implement Engrossed Second Substitute House Bill No. 2319 (affordable care act). If the bill is not enacted by June 30, 2012, the amounts provided in this subsection shall lapse.

(42) $1,109,000 of the general fund—state appropriation for fiscal year 2012, $1,471,000 of the general fund—state appropriation for fiscal year 2013, and $21,890,000 of the general fund—federal appropriation are provided solely to implement phase two of the project to create a single provider payment system that consolidates medicaid medical and social services payments and replaces the social service payment system.

(43) In order to achieve the twelve percent reduction in emergency room expenditures in the fiscal year 2013 appropriations provided in this section, the authority, in consultation with the Washington state hospital association, the Washington state medical association, and the Washington chapter of the American college of emergency physicians shall designate best practices and performance measures to reduce medically unnecessary emergency room visits of medicaid clients. The Washington state hospital association, the Washington state medical association, and the Washington chapter of the American college of emergency physicians will work with the authority to promote these best practices. The best practices and performance measures shall consist of the following items:

(a) Adoption of a system to exchange patient information among emergency room departments on a regional or statewide basis;

(b) Active dissemination of patient educational materials produced by the Washington state hospital association, Washington state medical association, and the Washington chapter of the American college of emergency physicians that instruct patients on appropriate facilities for nonemergent health care needs;

(c) Designation of hospital personnel and emergency room physician personnel to receive and appropriately disseminate information on clients participating in the medicaid patient review and coordination program and to review monthly utilization reports on those clients provided by the authority;

(d) A process to assist the authority's patient review and coordination program clients with their care plans. The process must include substantial efforts by hospitals to schedule an appointment with the client's assigned primary care provider within seventy-two hours of the client's medically unnecessary emergency room visit when appropriate under the client's care plan;

(e) Implementation of narcotic guidelines that incorporate the Washington chapter of the American college of emergency physician guidelines;

(f) Physician enrollment in the state's prescription monitoring program, as long as the program is funded; and

(g) Designation of a hospital emergency department physician responsible for reviewing the state's medicaid utilization management feedback reports, which will include defined performance measures. The emergency department physician and hospital will have a process to take appropriate action in response to the information in the feedback reports if performance measures are not met. The authority must develop feedback reports that include timely emergency room utilization data such as visit rates, medically unnecessary visit rates (by hospital and by client), emergency department imaging utilization rates, and other measures as needed. The authority may utilize the Robert Bree collaborative for assistance related to this best practice.

The requirements for best practices for a critical access hospital should not include adoption of a system to exchange patient information if doing so would pose a financial burden, and should not include requirements related to the authority's patient review and coordination program if the volume of those patients seen at the critical access hospital are small.

Hospitals participating in this medicaid best practices program shall submit to the authority a declaration from executive level leadership indicating hospital adoption of and compliance with the best practices enumerated above. In the declaration, hospitals will affirm that they have in place written policies, procedures, or guidelines to implement these best practices and are willing to share them upon request. The declaration must also give consent for the authority to disclose feedback reports and performance measures on its web site. The authority shall submit a list of declaring hospitals to the relevant policy and fiscal committees of the legislature by July 15, 2012.

If the authority does not receive by July 1, 2012, declarations from hospitals representing at least seventy-five percent of emergency room visits by medicaid clients in fiscal year 2010, the authority may implement a policy of nonpayment of medically unnecessary emergency room visits, with appropriate client and clinical safeguards such as exemptions and expedited prior authorization. The authority shall by January 15, 2013, perform a preliminary fiscal analysis of trends in implementing the best practices in this subsection, focusing on outlier hospitals with high rates of unnecessary visits by medicaid clients, high emergency room visit rates for patient review and coordination clients, low rates of completion of treatment plans for patient review and coordination clients assigned to the hospital, and high rates of prescribed long-acting opiates. In cooperation with the leadership of the hospital, medical, and emergency physician associations, additional efforts shall be focused on assisting those outlier hospitals and providers to achieve more substantial savings. The authority by January 15, 2013, will report to the legislature about whether assumed savings based on preliminary trend and forecasted data are on target and if additional best practices or other actions need to be implemented.

If necessary, pursuant to RCW 34.05.350(1)(c), the authority may employ emergency rulemaking to achieve the reductions assumed in the appropriations under this section.

Nothing in this subsection shall in any way impact the authority's ability to adopt and implement policies pertaining to the patient review and coordination program.

(44) $25,000 of the hospital safety net assessment—state appropriation and $25,000 of the general fund—federal appropriation are provided solely for the authority to review and report on the payment of facility fees in programs administered by the authority. The study shall include a summary of state and federal requirements and practices with regard to the use of such fees; an analysis of how authority payments for services and procedures that include an explicit facility fee component compare to amounts paid for comparable services and procedures that do not; the amount expended for facility fees by major program and service in each of the four most recent years for which reasonably complete and comparable information is available; an analysis of the extent to which hospital acquisition of physician practices and of laboratory, imaging, and other outpatient diagnostic and treatment services has contributed to increased state expenditures; and the authority's recommendations regarding possible revisions to calculation and payment of such fees. The authority shall report its finding and recommendations to the health care and appropriate fiscal committees of the legislature by November 1, 2012.

(45) Prior to entering into a contract for medicaid managed care services for the period commencing July 1, 2012, the director of the health care authority shall certify to the governor and to the health care committees of the legislature that the contractor has established a network of acute, primary, and specialty care providers that is sufficient to meet the needs of the contractor's anticipated enrollee population. If no plan is able to certify an adequate provider network in a county, the health care authority shall request re-bids from all plans which originally submitted bids for the county during the regular procurement process until award is successful. No county, that is currently served by Medicaid managed care services shall revert to fee-for-service as a result of the procurement process.

(46) The department shall seek a medicaid state plan amendment to create a graduate medical education supplemental payment for services delivered to managed care recipients by University of Washington medicine and other public professional providers. This program shall be effective as soon as administratively possible and shall operate concurrently with the existing professional services supplemental payment program. Providers that participate in the graduate medical education supplemental payment program are not eligible to participate in the professional services supplemental payment program. The department shall apply federal rules for identifying the difference between current physician encounter and fee-for-service medicaid payments to participating providers and the applicable federal upper payment limit. Participating providers shall be solely responsible for providing the local funds required to obtain federal matching funds. Any incremental costs incurred by the department in the development, implementation, and maintenance of this program shall be the responsibility of the participating providers. Participating providers shall retain the full amount of supplemental payments provided under this program, net of any costs related to the program that are disallowed due to audits or litigation against the state.

(47) The authority shall exclude antiretroviral drugs used to treat HIV/AIDS, anticancer medication that is used to kill or slow the growth of cancerous cells, antihemophilic drugs, insulin and other drugs to lower blood glucose, and

immunosuppressive drugs from any formulary limitations implemented to operate within the appropriations provided in this section.

(48) If Engrossed Substitute Senate Bill No. 5978 (medicaid fraud) is not enacted by June 30, 2012, the amounts appropriated in this section from the medicaid fraud penalty account—state appropriation shall lapse and an additional $3,608,000 shall be appropriated from the general fund—state for fiscal year 2013 for medicaid services, fraud detection and prevention activities, recovery of improper payments, and for other medicaid fraud enforcement activities.

(49) The authority may pursue a competitive bidding process for the purchase of lowest cost generic drugs within the medicaid program.

(50) Within the amounts appropriated in this section, the health care authority and the department of social and health services shall implement the state option to provide health homes for enrollees with chronic conditions under section 2703 of the federal affordable care act. The total state match for enrollees who are dually-eligible for both medicare and medicaid and not enrolled in managed care shall be no more than the net savings to the state from the enhanced match rate for its medicaid-only managed care enrollees under section 2703.

(51) The health care authority shall not initiate any services that require expenditure of state general fund moneys unless expressly authorized in this act or other law. The health care authority 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 health care authority 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.

(52) $66,000 of the general fund—state appropriation for fiscal year 2013 and $66,000 of the general fund—federal appropriation are provided solely to implement Engrossed Second Substitute House Bill No. 2536 (children services/ delivery). The department of social and health services' programs responsible for administration of mental health, child welfare, and juvenile justice programs will coordinate with the health care authority on the development of contract terms which facilitate efforts to meet requirements of the bill. If the bill is not enacted by June 30, 2012, the amounts provided in this subsection shall lapse.

(53) The health care authority shall participate in the work group established by the department of corrections in section 220(2) of this act to review release options for elderly and infirm offenders.

(54) $35,000 of the general fund—state appropriation for fiscal year 2013 and $35,000 of the general fund—federal appropriation are provided solely for development of a new payment and managed care enhancement reconciliation methodology for rural health clinics. The new methodology shall to the greatest possible extent increase administrative simplicity for the

rural health clinics; increase transparency, efficiency, and predictability for the clinics; and shorten the time elapsing between initial payment and final reconciliation. The new methodology shall be developed in consultation with the rural health clinic association, staff from the office of financial management and the legislative fiscal committees, and the federal centers for medicare and medicaid services. The authority shall contract with a consultant acceptable to the rural health clinic association to assist in preparation of the new methodology, and shall report to the governor and appropriate committees of the legislature by December 1, 2012, on the proposed alternative payment and reconciliation methodology.

***Sec. 213 was partially vetoed. See message at end of chapter.**

Sec. 214. 2011 1st sp.s. c 50 s 214 (uncodified) is amended to read as follows:

FOR THE HUMAN RIGHTS COMMISSION

General Fund—State Appropriation (FY 2012) . . . . . ((~~$2,240,000~~)) $1,993,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$2,242,000~~)) $1,954,000

General Fund—Federal Appropriation . . . . . ((~~$1,903,000~~)) $1,893,000

TOTAL APPROPRIATION . . . . . ((~~$6,385,000~~)) $5,840,000

Sec. 215. 2011 2nd sp.s. c 9 s 214 (uncodified) is amended to read as follows:

FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS

Worker and Community Right-to-Know Account—State Appropriation $10,000

Accident Account—State Appropriation . . . . . ((~~$19,690,000~~)) $19,598,000

Medical Aid Account—State Appropriation . . . . . ((~~$19,689,000~~)) $19,601,000

TOTAL APPROPRIATION . . . . . ((~~$39,389,000~~)) $39,209,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $36,000 of the accident account—state appropriation and $36,000 of the medical aid account—state appropriation are solely provided for Engrossed Substitute Senate Bill No. 5068 (industrial safety and health act). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(2) $16,000 of the accident account—state appropriation and $16,000 of the medical aid account—state appropriation are solely provided for Substitute Senate Bill No. 5801 (industrial insurance system). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(3) $1,893,000 of the accident account—state appropriation and $1,893,000 of the medical aid account—state appropriation are provided solely for implementation of House Bill No. 2123 (workers' compensation). If the bill is

not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

Sec. 216. 2011 2nd sp.s. c 9 s 215 (uncodified) is amended to read as follows:

FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

General Fund—State Appropriation (FY 2012) . . . . . ((~~$14,850,000~~)) $14,589,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$14,711,000~~)) $14,147,000

General Fund—Federal Appropriation $456,000

General Fund—Private/Local Appropriation $4,048,000

Death Investigations Account—State Appropriation $148,000

Municipal Criminal Justice Assistance Account—

State Appropriation $460,000

Washington Auto Theft Prevention Authority Account—

State Appropriation $8,597,000

TOTAL APPROPRIATION . . . . . ((~~$43,270,000~~)) $42,445,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $5,000,000 of the general fund—state appropriation for fiscal year 2012 and $5,000,000 of the general fund—state appropriation for fiscal year 2013, are provided to the Washington association of sheriffs and police chiefs solely to verify the address and residency of registered sex offenders and kidnapping offenders under RCW 9A.44.130.

(2) $321,000 of the general fund—local appropriation is provided solely to purchase ammunition for the basic law enforcement academy. Jurisdictions shall reimburse to the criminal justice training commission the costs of ammunition, based on the average cost of ammunition per cadet, for cadets that they enroll in the basic law enforcement academy.

(3) The criminal justice training commission may not run a basic law enforcement academy class of fewer than 30 students.

(4) $100,000 of the general fund—state appropriation for fiscal year 2012 and $100,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for a school safety program. 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 hired after the effective date of this section.

(5) $96,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$90,000~~)) $96,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the school safety center within the commission. The safety center shall act as an information dissemination and resource center when an incident occurs in a school district in Washington or in another state, coordinate activities relating to school safety, and review and approve manuals and curricula used for school safety models and training. Through an interagency agreement, the commission shall provide funding for the office of the superintendent of public instruction to continue to develop and maintain a school safety information web site. The school safety center advisory committee

shall develop and revise the training program, using the best practices in school safety, for all school safety personnel. The commission shall provide research-related programs in school safety and security issues beneficial to both law enforcement and schools.

(6) $1,000,000 of the general fund—state appropriation for fiscal year 2012 and $1,000,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for grants to counties enforcing illegal drug laws and which have been underserved by federally funded state narcotics task forces. The Washington association of sheriffs and police chiefs, the Washington association of prosecuting attorneys, and the Washington association of county officials shall jointly develop funding allocations for the offices of the county sheriff, county prosecutor, and county clerk in qualifying counties. The commission shall not impose an administrative cost on this program.

Sec. 217. 2011 2nd sp.s. c 9 s 216 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

General Fund—State Appropriation (FY 2012) . . . . . ((~~$17,433,000~~))
$17,406,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$18,374,000~~))
$17,906,000

General Fund—Federal Appropriation $11,636,000

Asbestos Account—State Appropriation . . . . . ((~~$395,000~~))
$375,000

Electrical License Account—State Appropriation . . . . . ((~~$37,019,000~~))
$36,357,000

Farm Labor Revolving Account—Private/Local Appropriation $28,000

Worker and Community Right-to-Know Account—
State Appropriation . . . . . ((~~$949,000~~))
$916,000

Public Works Administration Account—State
Appropriation. . . . . ((~~$6,814,000~~))
$7,043,000

Manufactured Home Installation Training Account—
State Appropriation $334,000

Accident Account—State Appropriation . . . . . ((~~$252,809,000~~))
$250,317,000

Accident Account—Federal Appropriation $13,622,000

Medical Aid Account—State Appropriation . . . . . ((~~$264,202,000~~))
$262,421,000

Medical Aid Account—Federal Appropriation $3,186,000

Plumbing Certificate Account—State Appropriation. . . . . ((~~$1,688,000~~))
$1,675,000

Pressure Systems Safety Account—State
Appropriation. . . . . ((~~$4,068,000~~))
$4,050,000

TOTAL APPROPRIATION . . . . . ((~~$632,557,000~~))
$627,272,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees related to factory assembled structures, contractor registration, electricians, plumbers, asbestos removal, boilers, elevators, and manufactured home installers. Plumber fees may be increased each year of the fiscal biennium. These increases are necessary to support expenditures authorized in this section, consistent with chapters 43.22, 18.27, 19.28, and 18.106 RCW, RCW 49.26.130, and chapters 70.79, 70.87, and 43.22A RCW.

(2) $50,000 of the general fund—state appropriation for fiscal year 2012 and $50,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the crime victims compensation program to pay claims for mental health services for crime victim compensation program clients who have an established relationship with a mental health provider and subsequently obtain coverage under the medicaid program or the medical care services program under chapter 74.09 RCW. Prior to making such payment, the program must have determined that payment for the specific treatment or provider is not available under the medicaid or medical care services program. In addition, the program shall make efforts to contact any healthy options or medical care services health plan in which the client may be enrolled to help the client obtain authorization to pay the claim on an out-of-network basis.

(3) $1,281,000 of the accident account—state appropriation and $1,281,000 of the medical aid account—state appropriation are provided solely for implementation of Engrossed Substitute House Bill No. 1725 (workers' compensation). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(4) $51,000 of the accident account—state appropriation and $51,000 of the medical aid account—state appropriation are provided solely for implementation of Engrossed Substitute House Bill No. 1367 (for hire vehicles, operators). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(5) $8,727,000 of the medical aid account—state appropriation is provided solely for implementation of Substitute Senate Bill No. 5801 (industrial insurance system). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(6) $625,000 of the general fund—state appropriation for fiscal year 2012, $625,000 of the general fund—state appropriation for fiscal year 2013, $1,250,000 of the public works administration account—state appropriation, $708,000 of the accident account—state appropriation, and $708,000 of the medical aid account—state appropriation are provided solely for the purposes of expanding the detecting unregistered employers targeting system and to support field staff in investigation and enforcement. Within the funds appropriated in this subsection, the department shall aggressively combat the underground economy in construction. Of the amounts provided in this subsection, $800,000 shall be used for investigation and enforcement.

(7) $8,583,000 of the accident account—state appropriation and $18,278,000 of the medical aid account—state appropriation are provided solely for implementation of House Bill No. 2123 (workers' compensation). If the bill

is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(8) $90,000 of the public works administration account—state appropriation is provided solely to implement Substitute Senate Bill No. 6421 (prevailing wage/public works). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(9) $34,000 of the electrical license account—state appropriation is provided solely to implement Senate Bill No. 6133 (electrician certifications). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

Sec. 218. 2011 2nd sp.s. c 9 s 217 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS

(1) HEADQUARTERS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$1,832,000~~))
$1,829,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$1,826,000~~))
$1,801,000

Charitable, Educational, Penal, and Reformatory Institutions Account—State Appropriation $10,000

TOTAL APPROPRIATION . . . . . ((~~$3,668,000~~))
$3,640,000

(2) FIELD SERVICES

General Fund—State Appropriation (FY 2012) . . . . . ((~~$5,006,000~~))
$5,002,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$5,001,000~~))
$4,964,000

General Fund—Federal Appropriation . . . . . ((~~$3,356,000~~))
$3,348,000

General Fund—Private/Local Appropriation . . . . . ((~~$4,737,000~~))
$4,722,000

Veterans Innovations Program Account—State Appropriation . . . . . ((~~$812,000~~))
$810,000

Veteran Estate Management Account—Private/Local Appropriation . . . . . ((~~$1,083,000~~))
$1,079,000

TOTAL APPROPRIATION . . . . . ((~~$19,995,000~~))
$19,925,000

The appropriations in this subsection are subject to the following conditions and limitations: $821,000 of the veterans innovations program account—state appropriation is provided solely for the department to continue support for returning combat veterans through the veterans innovation program, including emergency financial assistance through the defenders' fund and long-term financial assistance through the competitive grant program.

(3) INSTITUTIONAL SERVICES
General Fund—State Appropriation (FY 2012) . . . . . ((~~$899,000~~))
$1,743,000
((~~General Fund—State Appropriation (FY 2013). . . . . $71,000~~))
General Fund—Federal Appropriation . . . . . ((~~$59,177,000~~))
$61,437,000
General Fund—Private/Local Appropriation . . . . . ((~~$32,094,000~~))
$29,506,000
TOTAL APPROPRIATION . . . . . ((~~$92,241,000~~))
$92,686,000

Sec. 219. 2011 2nd sp.s. c 9 s 218 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH
General Fund—State Appropriation (FY 2012) . . . . . ((~~$79,888,000~~))
$79,404,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$79,718,000~~))
$78,114,000
General Fund—Federal Appropriation . . . . . ((~~$555,563,000~~))
$553,078,000
General Fund—Private/Local Appropriation . . . . . ((~~$148,362,000~~))
$148,055,000
Hospital Data Collection Account—State Appropriation. $214,000
Health Professions Account—State Appropriation . . . . . ((~~$94,469,000~~))
$99,085,000
Aquatic Lands Enhancement Account—State Appropriation $604,000
Emergency Medical Services and Trauma Care Systems
Trust Account—State Appropriation. . . . . ((~~$12,302,000~~))
$12,300,000
Safe Drinking Water Account—State Appropriation . . . . . ((~~$4,480,000~~))
$4,464,000
Drinking Water Assistance Account—Federal
Appropriation. . . . . ((~~$22,875,000~~))
$21,965,000
Waterworks Operator Certification—State
Appropriation. . . . . ((~~$1,532,000~~))
$1,528,000
Drinking Water Assistance Administrative Account—
State Appropriation $326,000
Site Closure Account—State Appropriation. $79,000
Biotoxin Account—State Appropriation $1,167,000
State Toxics Control Account—State Appropriation . . . . . ((~~$3,649,000~~))
$3,628,000
Medical Test Site Licensure Account—State
Appropriation. . . . . ((~~$2,321,000~~))
$2,311,000
Youth Tobacco Prevention Account—State Appropriation $1,512,000

Community and Economic Development Fee Account—State Appropriation. . . . . ((~~$596,000~~)) $298,000
Public Health Supplemental Account—Private/Local Appropriation. $3,598,000
Accident Account—State Appropriation . . . . . ((~~$297,000~~)) $295,000
Medical Aid Account—State Appropriation $50,000
Tobacco Prevention and Control Account—State Appropriation. . . . . ((~~$37,000~~)) $1,729,000
TOTAL APPROPRIATION . . . . . ((~~$1,013,560,000~~)) $1,013,804,000

The appropriations in this section are subject to the following conditions and limitations:

(1) 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 of health and the state board of health shall not implement any new or amended rules pertaining to primary and secondary school facilities until the rules and a final cost estimate have been presented to the legislature, and the legislature has formally funded implementation of the rules through the omnibus appropriations act or by statute. 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.

(2) In accordance with RCW 43.70.250 and 43.135.055, the department is authorized to establish and raise fees in fiscal year 2012 as necessary to meet the actual costs of conducting business and the appropriation levels in this section. This authorization applies to fees required for: The review of health care facility construction; review of health facility requests for certificate of need; the regulation and inspection of farm worker housing, hospital licensing, in-home health service agencies, and producers of radioactive waste; the regulation and inspection of shellfish sanitary control, surgical facility licensing, and; fees associated with the following professions: Dieticians and nutritionists, occupational therapists, pharmacy, veterinarian, orthotics and prosthetics, surgical technicians, nursing home administrators, health care assistants, hearing and speech, psychology, hypnotherapy, chiropractic, social workers, physicians, and physician assistants.

(3) Pursuant to RCW 18.130.250, the department is authorized to establish a lower cost fee category for retired licensed practical nurses and registered nurses.

(4) In accordance with RCW 43.135.055, the department is authorized to adopt fees set forth in and previously authorized in chapter 92, Laws of 2010.

(5) $1,969,000 of the health professions account—state appropriation is provided solely to implement online licensing for health care providers. The department must submit a detailed investment plan for this project to the office of financial management. The office of financial management must review and approve this plan before funding may be expended. The department of health must successfully implement online application and renewal for at least one profession as a pilot project before pursuing additional professions. The department must report to the office of financial management on the outcome of the pilot project.

((~~(4)~~)) (6) $16,000 of the health professions account—state appropriation is provided solely for the implementation of House Bill No. 1181 (board of naturopathy). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

((~~(5)~~)) (7) $21,000 of the health professions account—state appropriation is provided solely for the implementation of Substitute House Bill No. 1304 (health care assistants). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

((~~(6)~~)) (8) $54,000 of the health professions account—state appropriation is provided solely for the implementation of House Bill No. 1353 (pharmacy technicians). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

((~~(7)~~)) (9) $142,000 of the health professions account—state appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 5020 (social workers). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

((~~(8)~~)) (10) $336,000 of the health professions account—state appropriation is provided solely for the implementation of Senate Bill No. 5480 (physicians and physician assistants). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

((~~(9)~~)) (11) $46,000 of the health professions account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5071 (online access for midwives and marriage and family therapists). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

((~~(10)~~)) (12) $137,000 of the health professions account—state appropriation is provided solely for implementation of Substitute House Bill No. 1133 (massage practitioner license). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

((~~(11)~~)) (13) $85,000 of the general fund—state appropriation for fiscal year 2012 ((~~and $85,000 of the general fund—state appropriation for fiscal year 2013 are~~)) is provided solely for the developmental disabilities council to contract for a family-to-family mentor program to provide information and support to families and guardians of persons who are transitioning out of residential habilitation centers. To the maximum extent allowable under federal law, these funds shall be matched under medicaid through the department of social and

health services and federal funds shall be transferred to the department for the purposes stated in this subsection. If Second Substitute Senate Bill No. 5459 (people with developmental disabilities) is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(((~~(12)~~))) (14) $57,000 of the general fund—state appropriation for fiscal year 2012 and $58,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the midwifery licensure and regulatory program to offset a reduction in revenue from fees. There shall be no change to the current annual fees for new or renewed licenses for the midwifery program, except from online access to HEAL-WA. The department shall convene the midwifery advisory committee on a quarterly basis to address issues related to licensed midwifery.

(((~~(13)~~))) (15) $118,000 of the general fund—state appropriation for fiscal year 2012 and $118,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for prevention of youth suicides.

(((~~(14)~~))) (16) $87,000 of the general fund—state appropriation for fiscal year 2012 and $87,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the senior falls prevention program.

(17) $19,000 of the health professions account—state appropriation is provided solely for implementation of Senate Bill No. 6290 (military spouses and partners). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(18) $102,000 of the health professions account—state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 6237 (career pathway/medical assistants). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(19) $21,000 of the health professions account—state appropriation is provided solely for implementation of Substitute Senate Bill No. 6328 (mental health professionals). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(20) $61,000 of the health professions account—state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 6103 (reflexologists). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(21) $28,000 of the health professions account—state appropriation is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 5620 (dental anesthesia assistants). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(22) Appropriations for fiscal year 2013 include funding for consolidation of the department of ecology's low-level radioactive waste site use permit program in the department of health.

(23) During the remainder of the 2011-2013 fiscal biennium, each person subject to RCW 43.70.110(3)(c) is required to pay only one surcharge of up to twenty-five dollars annually for the purposes of RCW 43.70.112, regardless of how many professional licenses the person holds.

(24) $15,000 of the health professions account—state appropriation is provided solely to implement Substitute House Bill No. 2056 (assisted living facilities). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(25) $11,000 of the health professions account—state appropriation is provided solely to implement Engrossed House Bill No. 2186 (licensed midwives). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(26) $11,000 of the general fund—state appropriation for fiscal year 2013 is provided solely to implement Engrossed Substitute House Bill No. 2229 (hospital employees). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(27) $48,000 of the health professions account—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 2314 (long-term care workers). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(28) $280,000 of the health professions account—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 2366 (suicide assessment and training). If the bill is not enacted by June 30, 2012, the amounts provided in this subsection shall lapse.

(29) $11,000 of the general fund—state appropriation for fiscal year 2013 is provided solely to implement Engrossed Substitute House Bill No. 2582 (health care services billing). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(30) $22,000 of the general fund—state appropriation for fiscal year 2013 is provided solely to implement Substitute Senate Bill No. 6105 (prescription monitoring program). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(31) $30,000 of the health professions account—state appropriation is provided solely for implementation of Engrossed Substitute House Bill No. 2473 (medication assistant endorsement). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(32) General fund—state appropriations for fiscal year 2013 includes funding to subsidize operating license and inspection fees in the temporary worker housing program. In implementing this subsidy, the department shall evaluate program regulations including but not limited to the use of occupancy levels to determine the fee structure and the frequency of inspections.

Sec. 220. 2011 2nd sp.s. c 9 s 219 (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 in this section. However, after May 1, 2012, 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 2012 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. 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 2012) . . . . . ((~~$54,529,000~~))
$52,025,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$53,210,000~~))
$52,981,000
TOTAL APPROPRIATION . . . . . ((~~$107,739,000~~))
$105,006,000

The appropriations in this subsection are subject to the following conditions and limitations: $35,000 of the general fund—state appropriation for fiscal year 2012 and $35,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the 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 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 2012) . . . . . ((~~$609,105,000~~))
$598,237,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$602,804,000~~))
$575,457,000
General Fund—Federal Appropriation $3,324,000
Washington Auto Theft Prevention Authority Account—
State Appropriation $14,079,000
Enhanced 911 Account—State Appropriation $2,000,000
TOTAL APPROPRIATION . . . . . ((~~$1,229,312,000~~))
$1,193,097,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) During the 2011-13 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.

(b) The Harborview medical center and 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 has negotiated with other community hospitals in Washington state.

(c) $102,000 of the general fund—state appropriation for fiscal year 2012 and $102,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to implement House Bill No. 1290 (health care employee overtime). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(d) $32,000 of the general fund—state appropriation for fiscal year 2012 and $33,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to implement Substitute House Bill No. 1718 (offenders with developmental disabilities). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(e) The department of corrections shall contract with local and tribal governments for the provision of jail capacity to house offenders. A contract shall not have a cost of incarceration in excess of $85 per day per offender. A contract shall not have a year-to-year increase in excess of three percent per year. The contracts may include rates for the medical care of offenders which exceed the daily cost of incarceration and the limitation on year-to-year increase, provided that medical payments conform to the department's offender health plan, pharmacy formulary, and all off-site medical expenses are preapproved by department utilization management staff.

(f) $311,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for implementation of House Bill No. 2346 (correctional officer uniforms). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(g) $41,000 of the general fund—state appropriation for fiscal year 2012 and $165,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the department to maintain the facility, property, and assets at the institution formerly known as the maple lane school in Rochester. The department may not house incarcerated offenders at the maple lane site until specifically directed by the legislature. By November 1, 2012, the department shall report to the appropriate fiscal committees of the house of representatives and the senate with a plan for the future use of the facility.

(h) By December 1, 2012, the department shall provide to the legislative fiscal committees a report that evaluates health care expenditures in Washington state correctional institutions and makes recommendations for controlling health care costs. The report shall evaluate the source of health care costs, including offender health issues, use of pharmaceuticals, offsite and specialist medical care, chronic disease costs, and mental health issues. The department may include information from other states on cost control in offender health care, trends in offender health care that indicate potential cost increases, and management of high-cost diagnoses.

(i) The department shall convene a work group to develop health care cost containment strategies at local jail facilities. The work group shall identify cost containment strategies in place at the department and at local jail facilities, identify the costs and benefits of implementing strategies in jail health-care facilities, and make recommendations on implementing beneficial strategies. The work group shall submit a report on its findings and recommendations to the fiscal committees of the legislature by October 1, 2013. The work group shall include jail administrators, representatives from health care facilities at the local

jail level and the state prisons level, and other representatives as deemed necessary.

(j) The department of corrections, with participation of the health care authority and the department of social and health services, aging and adult services administration, shall establish a work group to analyze and review release options for elderly and infirm offenders and submit recommendations to the appropriate policy and fiscal committees of the legislature with release options for these populations no later than December 1, 2012. In making its recommendations, the work group shall identify:

(i) The most expensive medical conditions for which the department has had to treat its offenders and the offenders receiving the most costly ongoing medical treatments;

(ii) For identified populations, the age, level of disability, cost of care while incarcerated, safety issues related to release, ease of placement, and time served in relation to the offender's sentence;

(iii) Potential cost savings to the state that may be generated by the early release of elderly and infirm offenders;

(iv) Housing options to expedite the release of aging and infirm offenders while maintaining the safety of housing providers, other housing residents, and the general public; and

(v) Optimal procedures for reviewing offenders on a case-by-case basis to ensure that the interests of justice and public safety are considered in any early release decision.

(3) COMMUNITY SUPERVISION

General Fund—State Appropriation (FY 2012) . . . . . ((~~$129,635,000~~))
$127,121,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$128,049,000~~))
$128,494,000

Federal Narcotics Forfeiture Account—Federal Appropriation. $372,000

Controlled Substances Account—State Appropriation. $32,000

TOTAL APPROPRIATION . . . . . ((~~$258,088,000~~))
$256,019,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) $875,000 of the general fund—state appropriation for fiscal year 2012 is provided solely to implement Engrossed Substitute House Bill No. 5891 (criminal justice cost savings). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(b) $6,362,000 of the general fund—state appropriation for fiscal year 2013 is provided solely to implement an evidence-based risk-needs-responsivity model for community supervision of offenders.

(4) CORRECTIONAL INDUSTRIES

General Fund—State Appropriation (FY 2012) . . . . . ((~~$3,535,000~~))
$2,513,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$3,458,000~~))
$2,431,000
TOTAL APPROPRIATION . . . . . ((~~$6,993,000~~))
$4,944,000

The appropriations in this subsection are subject to the following conditions and limitations: $66,000 of the general fund—state appropriation for fiscal year 2012 is 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 2012) . . . . . ((~~$37,053,000~~))
$35,821,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$35,549,000~~))
$27,264,000
TOTAL APPROPRIATION . . . . . ((~~$72,602,000~~))
$63,085,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state prison institutions may use funds appropriated in this subsection to rent uniforms from correctional industries in accordance with existing legislative mandates.

(b) The state prison medical facilities may use funds appropriated in this subsection to purchase goods and supplies through hospital or other group purchasing organizations when it is cost effective to do so.

(c) The department shall reduce payments to the department of information services or its successor by $213,000 in fiscal year 2012 and by $1,150,000 in fiscal year 2013. The reduction in payment shall be related to the elimination of the offender base tracking system, including moving remaining portions of the offender base tracking system into the offender management network information system.

Sec. 221. 2011 2nd sp.s. c 9 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SERVICES FOR THE BLIND
General Fund—State Appropriation (FY 2012) . . . . . ((~~$2,278,000~~))
$2,159,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$2,264,000~~))
$2,131,000
General Fund—Federal Appropriation . . . . . ((~~$19,082,000~~))
$19,239,000
General Fund—Private/Local Appropriation $30,000
TOTAL APPROPRIATION . . . . . ((~~$23,654,000~~))
$23,559,000

Sec. 222. 2011 2nd sp.s. c 9 s 221 (uncodified) is amended to read as follows:

FOR THE EMPLOYMENT SECURITY DEPARTMENT

General Fund—Federal Appropriation . . . . . ((~~$267,301,000~~))
$267,069,000

General Fund—Private/Local Appropriation . . . . . ((~~$33,931,000~~))
$33,856,000

Unemployment Compensation Administration Account—
Federal Appropriation . . . . . ((~~$350,622,000~~))
$349,247,000

Administrative Contingency Account—State
Appropriation. . . . . ((~~$20,948,000~~))
$20,940,000

Employment Service Administrative Account—State
Appropriation. . . . . ((~~$33,721,000~~))
$33,609,000

TOTAL APPROPRIATION . . . . . ((~~$706,523,000~~))
$704,721,000

The appropriations in this subsection are subject to the following conditions and limitations:

(1) $39,666,000 of the unemployment compensation administration account—federal appropriation is from amounts made available to the state by section 903 (d), (f), and (g) of the social security act (Reed act). This amount is provided solely for continuing current unemployment insurance functions and department services to employers and job seekers.

(2) $35,584,000 of the unemployment compensation administration account—federal appropriation is from amounts made available to the state by section 903 (d), (f), and (g) of the social security act (Reed act). This amount is provided solely for the replacement of the unemployment insurance tax information system for the employment security department. The employment security department shall support the department of revenue and department of labor and industries to develop a common vision to ensure technological compatibility between the three agencies to facilitate a coordinated business tax system for the future that improves services to business customers. The amounts provided in this subsection are conditioned on the department satisfying the requirements of the project management oversight standards and policies established by the office of the chief information officer created in Engrossed Substitute Senate Bill No. 5931 (information technology management).

(3) $25,000 of the unemployment compensation administration account—federal appropriation is from amounts made available to the state by section 903 (d), (f), and (g) of the social security act (Reed act). This amount is provided solely for implementation of system changes to the unemployment insurance tax information system required under chapter 4, Laws of 2011 (unemployment insurance program).

(4) $1,459,000 of the unemployment compensation administration account—federal appropriation is from amounts available to the state by section 903 (d), (f), and (g) of the social security act (Reed act). This amount is provided solely for implementation of chapter 4, Laws of 2011 (unemployment insurance program).

(5) (($~~$60,000~~$)) $80,000 of the unemployment compensation administration account—federal appropriation is provided solely for costs associated with the initial review and evaluation of the training benefits program as directed in section 15(2), chapter 4, Laws of 2011 (unemployment insurance program). The initial review shall be developed by the joint legislative audit and review committee. This appropriation is provided from funds made available to the state by section 903 (d), (f), and (g) of the social security act (Reed act).

PART III
NATURAL RESOURCES

Sec. 301. 2011 2nd sp.s. c 9 s 301 (uncodified) is amended to read as follows:

FOR THE COLUMBIA RIVER GORGE COMMISSION

General Fund—State Appropriation (FY 2012) . . . . . (($~~$402,000~~$))
$401,000

General Fund—State Appropriation (FY 2013) . . . . . (($~~$410,000~~$))
$404,000

General Fund—Federal Appropriation $31,000

General Fund—Private/Local Appropriation . . . . . (($~~$782,000~~$))
$775,000

TOTAL APPROPRIATION . . . . . (($~~$1,625,000~~$))
$1,611,000

***Sec. 302.** 2011 2nd sp.s. c 9 s 302 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

General Fund—State Appropriation (FY 2012) . . . . . (($~~$47,630,000~~$))
$37,143,000

General Fund—State Appropriation (FY 2013) . . . . . (($~~$46,226,000~~$))
$33,481,000

General Fund—Federal Appropriation . . . . . (($~~$77,452,000~~$))
$100,000,000

General Fund—Private/Local Appropriation . . . . . (($~~$16,691,000~~$))
$16,714,000

Special Grass Seed Burning Research Account—State Appropriation. $3,000

Reclamation Revolving Account—State Appropriation . . . . . (($~~$3,642,000~~$))
$4,123,000

Flood Control Assistance Account—State Appropriation. . . . . (($~~$1,940,000~~$))
$1,929,000

State Emergency Water Projects Revolving Account—State Appropriation. $270,000

Waste Reduction/Recycling/Litter Control—State Appropriation. . . . . (($~~$11,478,000~~$))
$9,712,000

State Drought Preparedness Account—State Appropriation. . . . . ((~~$118,000~~)) $204,000
State and Local Improvements Revolving Account (Water Supply Facilities)—State Appropriation . . . . . ((~~$423,000~~)) $422,000
((~~Freshwater~~)) Aquatic Algae Control Account—State Appropriation. $509,000
Water Rights Tracking System Account—State Appropriation $46,000
Site Closure Account—State Appropriation. . . . . ((~~$703,000~~)) $620,000
Wood Stove Education and Enforcement Account—State Appropriation. . . . . ((~~$612,000~~)) $595,000
Worker and Community Right-to-Know Account—State Appropriation. . . . . ((~~$1,668,000~~)) $1,655,000
Water Rights Processing Account—State Appropriation . . . . . ((~~$136,000~~)) $135,000
State Toxics Control Account—State Appropriation . . . . . ((~~$112,575,000~~)) $130,865,000
State Toxics Control Account—Private/Local Appropriation. . . . . ((~~$968,000~~)) $964,000
Local Toxics Control Account—State Appropriation. . . . . ((~~$27,390,000~~)) $26,157,000
Water Quality Permit Account—State Appropriation . . . . . ((~~$37,748,000~~)) $38,814,000
Underground Storage Tank Account—State Appropriation. . . . . ((~~$3,254,000~~)) $3,212,000
Biosolids Permit Account—State Appropriation . . . . . ((~~$1,805,000~~)) $1,791,000
Hazardous Waste Assistance Account—State Appropriation. . . . . ((~~$5,857,000~~)) $5,793,000
Air Pollution Control Account—State Appropriation . . . . . ((~~$2,468,000~~)) $2,541,000
Oil Spill Prevention Account—State Appropriation . . . . . ((~~$5,566,000~~)) $5,489,000
Air Operating Permit Account—State Appropriation . . . . . ((~~$2,746,000~~)) $2,711,000
Freshwater Aquatic Weeds Account—State Appropriation. . . . . ((~~$1,700,000~~)) $1,698,000
Oil Spill Response Account—State Appropriation $7,076,000
Metals Mining Account—State Appropriation. $14,000

Water Pollution Control Revolving Account—State
Appropriation. . . . . ((~~$611,000~~))
$608,000
Water Pollution Control Revolving Account—Federal
Appropriation. . . . . ((~~$2,517,000~~))
$2,501,000
TOTAL APPROPRIATION . . . . . ((~~$421,842,000~~))
$437,795,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $170,000 of the oil spill prevention account—state appropriation is provided solely for 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.

(2) Pursuant to RCW 43.135.055, the department is authorized to increase the following fees as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Wastewater discharge permit, not more than 4.34 percent in fiscal year 2012 and 4.62 percent in fiscal year 2013; biosolids permit fee, not more than 10 percent during the biennium; and air contaminate source registration fee, not more than 36 percent during the biennium; agricultural burning acreage and pile burning fees, not more than 25 percent and 100 percent respectively, in fiscal year 2013; and dam safety and inspection fees, not more than 35 percent in fiscal year 2012 and 4.62 percent in fiscal year 2013. Any fee increase implemented to offset general fund—state reductions in the 2011-2013 fiscal biennium may be made effective on or before July 1, 2012.

(3) If Substitute House Bill No. 1294 (Puget Sound corps) is not enacted by June 30, 2011, $322,000 of the general fund—state appropriation for fiscal year 2012 and $322,000 of the general fund—state appropriation for fiscal year 2013 shall be transferred to the department of natural resources.

(4) $463,000 of the state toxics control account—state appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 1186 (state's oil spill program). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(5) Pursuant to RCW 70.93.180(5), the appropriations in this section from the waste reduction, recycling, and litter control account shall only be expended on activities listed under RCW 70.93.180(1) (a) and (b), and the department shall not expend appropriations on RCW 70.93.180(1)(c). The department may not spend waste reduction, recycling, and litter control account funds to support the following activities: The beyond waste plan, work on national solid waste recycling issues, work on construction and demolition recycling and green building alternatives, education programs including the green schools initiative, and management of the 1-800-recycle hotline and database on school awards. Waste reduction, recycling, and litter account control funds must be prioritized to support litter pickup using correctional crews, regulatory programs, and technical assistance to local governments.

(6) The department shall make every possible effort through its existing statutory authorities to obtain federal funding for public participation grants

regarding the Hanford nuclear reservation and associated properties and facilities. Such federal funding shall not limit the total state funding authorized under this section for public participation grants made pursuant to RCW 70.105D.070(5), but the amount of any individual grant from such federal funding shall be offset against any grant award amount to an individual grantee from state funds under RCW 70.105D.070(5).

(7) The department shall review its water rights application review procedures to simplify the procedures, eliminate unnecessary steps, and decrease the time required to issue decisions. The department shall implement changes to improve water rights processing for which it has current administrative authority. The department shall report on reforms implemented and efficiencies achieved as demonstrated through enhanced permit processing to the appropriate committees of the legislature on December 1, 2011, and October 1, 2012.

(a) The department shall consult with key stakeholders on statutory barriers to efficient water rights processing and effective water management, including identification of obsolete, confusing, or conflicting statutory provisions. The department shall report stakeholder recommendations to appropriate committees of the legislature by December 1, 2011, and October 1, 2012.

(b) $500,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for processing water right permit applications only if the department of ecology issues at least five hundred water right decisions in fiscal year 2012, and if the department of ecology does not issue at least five hundred water right decisions in fiscal year 2012 the amount provided in this subsection shall lapse and remain unexpended. The department of ecology shall submit a report to the office of financial management and the state treasurer by June 30, 2012, that documents whether five hundred water right decisions were issued in fiscal year 2012. For the purposes of this subsection, applications that are voluntarily withdrawn by an applicant do not count towards the five hundred water right decision requirement. For the purposes of water budget-neutral requests under chapter 173-539A WAC, multiple domestic connections authorized within a single water budget-neutral decision are considered one decision for the purposes of this subsection.

(c) The department shall maintain an ongoing accounting of water right applications received and acted on and shall post that information to the department's internet site.

(8) $1,075,000 of the general fund—state appropriation for fiscal year 2012 and $1,075,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for processing the backlog of pending water rights permit applications in the water resources program.

(9) In accordance with RCW 43.135.055, the department is approved to adopt fees set forth in and previously authorized by RCW 70.94.151, gasoline vapor registration fee.

(10) Pursuant to House Bill No. 2304 (low-level waste), the appropriations in this section for the low-level radioactive waste site use permit program are for fiscal year 2012. Appropriations for fiscal year 2013 are contained in section 219 of this act.

(11) Pursuant to RCW 90.16.090(2), the appropriations in this section from the reclamation account—state appropriation shall be expended for the activities

listed in RCW 90.16.090(1), and the expenditures need not be proportional to fee revenue sources.

(12) $77,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5343 (anaerobic digesters). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(13) $50,000 of the state toxics control account—state appropriation is provided solely to fulfill technical assistance duties prescribed in Senate Bill No. 6120 (children's safe products) or House Bill No. 2821 (children's safe products). If neither bill is enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(14) $1,000,000 of the state toxics control account—state appropriation is for the department to provide technical training regarding the benefits of low-impact development including, but not limited to, when the use of low-impact development is appropriate and feasible, and the design, installation, maintenance, and best practices of low-impact development. The department will consult with Washington State University extension low-impact development technical center and others in the development of the low-impact technical training. As appropriate, the department may contract with the Washington State University extension low-impact development technical center, private sector vendors, associations, and others to deliver the technical training. The technical training must be provided free of cost to phase II permittees and the private development community including builders, engineers, and other industry professionals. The training must be sequenced geographically and provided in time for local jurisdictions to comply with RCW 90.48.260 and 36.70A.130(5).

(15) $188,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the implementation of Second Engrossed Substitute Senate Bill No. 6406 (state natural resources). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

***Sec. 302 was partially vetoed. See message at end of chapter.**

Sec. 303. 2011 2nd sp.s. c 9 s 303 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

General Fund—State Appropriation (FY 2012) $8,955,000
General Fund—State Appropriation (FY 2013) $8,379,000
General Fund—Federal Appropriation $5,905,000
Winter Recreation Program Account—State
Appropriation. . . . . ((~~$1,761,000~~))
$1,759,000
ORV and Nonhighway Vehicle Account—State Appropriation $224,000
Snowmobile Account—State Appropriation . . . . . ((~~$4,848,000~~))
$4,844,000
Aquatic Lands Enhancement Account—State
Appropriation. . . . . ((~~$363,000~~))
$4,363,000
Parks Renewal and Stewardship Account—State
Appropriation. . . . . ((~~$116,087,000~~))
$106,505,000

Parks Renewal and Stewardship Account—Private/Local
Appropriation. $300,000
TOTAL APPROPRIATION . . . . . ((~~$146,822,000~~))
$141,234,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $8,876,000 of the general fund—state appropriation for fiscal year 2012 ((~~and~~)), $8,300,000 of the general fund—state appropriation for fiscal year 2013, and $4,000,000 of the aquatic lands enhancement account—state appropriation are provided solely to operate and maintain state parks as the commission implements a new fee structure. The goal of this structure is to make the parks system self-supporting. By August 1, 2012, state parks must submit a report to the office of financial management detailing its progress toward this goal and outlining any additional statutory changes needed for successful implementation.

(2) $79,000 of the general fund—state appropriation for fiscal year 2012 and $79,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for a grant for the operation of the Northwest avalanche center.

(3) ((~~$53,928,000~~)) $44,528,000 of the parks renewal and stewardship account—state appropriation is provided solely for implementation of Second Substitute Senate Bill No. 5622 (state land recreation access). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(4) Prior to closing any state park, the commission must notify all affected local governments and relevant nonprofit organizations of the intended closure and provide an opportunity for the notified local governments and nonprofit organizations to elect to acquire, or enter into, a maintenance and operating contract with the commission that would allow the park to remain open.

(5) The state parks and recreation commission, in cooperation with the Fort Worden lifelong learning center public development authority authorized under RCW 35.21.730 shall provide a report to the governor and appropriate committees of the legislature no later than October 15, 2012, to create a lifelong learning center at Fort Worden state park. This plan shall support and be based upon the Fort Worden state park long-range plan adopted by the state parks and recreation commission in September 2008. The report shall include a business and governance plan and supporting materials that provide options and recommendations on the long-term governance of Fort Worden state park, including building maintenance and restoration. While the commission may transfer full or partial operations to the public development authority the state shall retain title to the property. The state parks and recreation commission and the public development authority will agree on the scope and content of the report including the business and governance plan. In preparing this report the state parks and recreation commission and the public development authority shall provide ample opportunity for the public and stakeholders to participate in the development of the business and governance plan. The state parks and recreation commission shall review the report and if it is consistent with the 2008 Fort Worden state park long-range plan shall take action on a long-term governance and business plan no later than December 31, 2012.

(6) Within the appropriations contained in this section, the commission shall review the removal of trees from Brooks memorial state park that have been killed or damaged by fire in order to determine the recovery value from the sale of any timber that is surplus to the needs of the park. The commission shall remove such trees, if the commission determines that the recovery value from the sale of any timber is at least cost neutral and the removal is in a manner consistent with RCW 79A.05.035.

Sec. 304. 2011 2nd sp.s. c 9 s 304 (uncodified) is amended to read as follows:

FOR THE RECREATION AND CONSERVATION FUNDING BOARD

General Fund—State Appropriation (FY 2012) . . . . . ((~~$954,000~~)) $898,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$973,000~~)) $823,000

General Fund—Federal Appropriation . . . . . ((~~$3,299,000~~)) $3,295,000

General Fund—Private/Local Appropriation . . . . . ((~~$274,000~~)) $24,000

Aquatic Lands Enhancement Account—State Appropriation $278,000

Vessel Response Account—State Appropriation $100,000

Firearms Range Account—State Appropriation $37,000

Recreation Resources Account—State Appropriation . . . . . ((~~$2,874,000~~)) $2,869,000

NOVA Program Account—State Appropriation. $900,000

TOTAL APPROPRIATION . . . . . ((~~$9,689,000~~)) $9,224,000

The appropriations in this section are subject to the following conditions and limitations: $40,000 of the general fund—federal appropriation, $24,000 of the general fund—private/local appropriation, $100,000 of the vessel response account—state appropriation, and $12,000 of the recreation resources account—state appropriation are provided solely for House Bill No. 1413 (invasive species council). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

Sec. 305. 2011 2nd sp.s. c 9 s 305 (uncodified) is amended to read as follows:

FOR THE ENVIRONMENTAL AND LAND USE HEARINGS OFFICE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$2,308,000~~)) $2,153,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$2,275,000~~)) $2,020,000

TOTAL APPROPRIATION . . . . . ((~~$4,583,000~~)) $4,173,000

Sec. 306. 2011 2nd sp.s. c 9 s 306 (uncodified) is amended to read as follows:

FOR THE CONSERVATION COMMISSION

General Fund—State Appropriation (FY 2012) . . . . . ((~~$6,789,000~~)) $6,785,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$6,792,000~~))
$6,424,000
General Fund—Federal Appropriation $1,301,000
TOTAL APPROPRIATION . . . . . ((~~$14,882,000~~))
$14,510,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The conservation commission, in cooperation with all conservation districts, will seek to minimize conservation district overhead costs. These efforts may include consolidating conservation districts.

(2) $122,000 of the general fund—federal appropriation is provided solely for Engrossed Substitute House Bill No. 1886 (Ruckelshaus center process). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

Sec. 307. 2011 2nd sp.s. c 9 s 307 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$34,695,000~~))
$34,098,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$32,388,000~~))
$23,618,000
General Fund—Federal Appropriation . . . . . ((~~$105,717,000~~))
$105,481,000
General Fund—Private/Local Appropriation . . . . . ((~~$57,025,000~~))
$56,923,000
ORV and Nonhighway Vehicle Account—State Appropriation $391,000
Aquatic Lands Enhancement Account—State
Appropriation . . . . . ((~~$8,230,000~~))
$12,113,000
Recreational Fisheries Enhancement—State
Appropriation . . . . . ((~~$3,550,000~~))
$2,794,000
Warm Water Game Fish Account—State Appropriation . . . . . ((~~$3,051,000~~))
$2,841,000
Eastern Washington Pheasant Enhancement Account—State
Appropriation $849,000
Aquatic Invasive Species Enforcement Account—State
Appropriation $204,000
Aquatic Invasive Species Prevention Account—State
Appropriation . . . . . ((~~$719,000~~))
$848,000
State Wildlife Account—State Appropriation . . . . . ((~~$100,424,000~~))
$100,742,000
Special Wildlife Account—State Appropriation . . . . . ((~~$2,384,000~~))
$2,382,000
Special Wildlife Account—Federal Appropriation $500,000
Special Wildlife Account—Private/Local Appropriation $3,415,000
Wildlife Rehabilitation Account—State Appropriation $259,000

Regional Fisheries Enhancement Salmonid Recovery Account—Federal Appropriation $5,001,000
Oil Spill Prevention Account—State Appropriation . . . . . ((~~$887,000~~)) $883,000
Oyster Reserve Land Account—State Appropriation. . . . . ((~~$921,000~~)) $919,000
Recreation Resources Account—State Appropriation $3,300,000

Hydraulic Project Approval Account—State Appropriation $337,000
TOTAL APPROPRIATION . . . . . ((~~$360,610,000~~)) $357,900,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $294,000 of the aquatic lands enhancement account—state appropriation is provided solely for the implementation of hatchery reform recommendations defined by the hatchery scientific review group.

(2) $355,000 of the general fund—state appropriation for fiscal year 2012 and $355,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the department to continue a pilot project with the Confederated Tribes of the Colville Reservation to develop expanded recreational fishing opportunities on Lake Rufus Woods and its northern shoreline and to conduct joint enforcement of lake fisheries on Lake Rufus Woods and adjoining waters, pursuant to state and tribal intergovernmental agreements developed under the Columbia River water supply program. For the purposes of the pilot project:

(a) A fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirement of RCW 77.32.010 on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods;

(b) The Colville Tribes have agreed to provide to holders of its nontribal member fishing permits a means to demonstrate that fish in their possession were lawfully taken in Lake Rufus Woods;

(c) A Colville tribal member identification card shall satisfy the license requirement of RCW 77.32.010 on all waters of Lake Rufus Woods;

(d) The department and the Colville Tribes shall jointly designate fishing areas on the north shore of Lake Rufus Woods for the purposes of enhancing access to the recreational fisheries on the lake; and

(e) The Colville Tribes have agreed to recognize a fishing license issued under RCW 77.32.470 or RCW 77.32.490 as satisfying the nontribal member fishing permit requirements of Colville tribal law on the reservation portion of the waters of Lake Rufus Woods and at designated fishing areas on the north shore of Lake Rufus Woods;

(3) Prior to submitting its 2013-2015 biennial operating and capital budget request related to state fish hatcheries to the office of financial management, the department shall contract with the hatchery scientific review group (HSRG) to review this request. This review shall: (a) Determine if the proposed requests are consistent with HSRG recommendations; (b) prioritize the components of the requests based on their contributions to protecting wild salmonid stocks and meeting the recommendations of the HSRG; and (c) evaluate whether the

proposed requests are being made in the most cost effective manner. The department shall provide a copy of the HSRG review to the office of financial management with their agency budget proposal.

(4) $400,000 of the general fund—state appropriation for fiscal year 2012 and $400,000 of the general fund—state appropriation for fiscal year 2013 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.

(5) $50,000 of the general fund—state appropriation for fiscal year 2012 and $50,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for removal of derelict gear in Washington waters.

(6) $100,000 of the eastern Washington pheasant enhancement account—state appropriation is provided solely for the department to support efforts to enhance permanent and temporary pheasant habitat on public and private lands in Grant, Franklin, and Adams counties. The department may support efforts by entities including conservation districts, nonprofit organizations, and landowners, and must require such entities to provide significant nonstate matching resources, which may be in the form of funds, material, or labor.

(7) Within the amounts appropriated in this section, the department shall identify additional opportunities for partnerships in order to keep fish hatcheries operational. Such partnerships shall aim to maintain fish production and salmon recovery with less reliance on state operating funds.

(8) By September 1, 2011, the department shall update its interagency agreement dated September 30, 2010, with the department of natural resources concerning land management services on the department of fish and wildlife's wildlife conservation and recreation lands. The update shall include rates and terms for services.

(9) Prior to opening game management unit 490 to public hunting, the department shall complete an environmental impact statement that includes an assessment of how public hunting activities will impact the ongoing protection of the public water supply.

(10) $18,514,000 of the state wildlife account—state appropriation is provided solely for the implementation of Second Substitute Senate Bill No. 5385 (state wildlife account). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(11) $9,418,000 of the state wildlife account—state appropriation is provided solely for the implementation of Second Substitute Senate Bill No. 5622 (state land recreation access). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(12) $50,000 of the state wildlife account—state appropriation is provided solely for mitigation, claims, and assessment costs for injury or loss of livestock caused by wolves, black bears, and cougars.

(13) $552,000 of the aquatic lands enhancement account—state appropriation is provided solely for increased law enforcement capacity to reduce the occurrence of geoduck poaching and illegal harvest activities. With these additional funds, the department shall deploy two new fish and wildlife officers and one detective within Puget Sound to address on-the-water and marketplace geoduck harvest compliance.

(14) $337,000 of the hydraulic project approval—state appropriation is provided solely for the implementation of Second Engrossed Substitute Senate

Bill No. 6406 (state natural resources). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

***Sec. 308.** 2011 2nd sp.s. c 9 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

General Fund—State Appropriation (FY 2012) . . . . . ((~~$31,324,000~~)) $30,907,000

General Fund—State Appropriation (FY 2013) . . . . . ***((~~$35,791,000~~))*** ***$31,818,000***

General Fund—Federal Appropriation . . . . . ((~~$27,919,000~~)) $27,873,000

General Fund—Private/Local Appropriation . . . . . ((~~$2,374,000~~)) $2,372,000

Forest Development Account—State Appropriation . . . . . ((~~$41,717,000~~)) $46,254,000

ORV and Nonhighway Vehicle Account—State Appropriation . . . . . ((~~$4,387,000~~)) $4,373,000

Surveys and Maps Account—State Appropriation . . . . . ((~~$2,346,000~~)) $2,118,000

Aquatic Lands Enhancement Account—State Appropriation . . . . . ((~~$7,224,000~~)) $69,000

Resources Management Cost Account—State Appropriation . . . . . ((~~$82,097,000~~)) $90,131,000

Surface Mining Reclamation Account—State Appropriation . . . . . ((~~$3,484,000~~)) $3,467,000

Disaster Response Account—State Appropriation $5,000,000

Forest and Fish Support Account—State Appropriation . . . . . ((~~$7,933,000~~)) $9,784,000

Aquatic Land Dredged Material Disposal Site Account—State Appropriation $838,000

Natural Resources Conservation Areas Stewardship Account—State Appropriation $34,000

State Toxics Control Account—State Appropriation $80,000

Air Pollution Control Account—State Appropriation . . . . . ((~~$669,000~~)) $540,000

NOVA Program Account—State Appropriation . . . . . ((~~$639,000~~)) $635,000

Derelict Vessel Removal Account—State Appropriation $1,761,000

Agricultural College Trust Management Account—State Appropriation . . . . . ((~~$1,854,000~~)) $1,848,000

Forest Practices Application Account—State Appropriation $780,000

Marine Resources Stewardship Trust Account—State Appropriation $2,100,000

TOTAL APPROPRIATION . . . . . ((~~$257,471,000~~))
$262,782,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $710,000 of the general fund—state appropriation for fiscal year 2012 and $915,000 of the general fund—state appropriation for fiscal year 2013 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.

(2) $8,030,000 of the general fund—state appropriation for fiscal year 2012, ((~~$10,037,000~~)) $7,276,000 of the general fund—state appropriation for fiscal year 2013, $2,138,000 of the forest development account—state appropriation for fiscal year 2013, and $5,000,000 of the disaster response account—state appropriation are provided solely for emergency fire suppression. 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. The department of natural resources shall submit a quarterly report to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from the disaster response account. This work shall be done in coordination with the military department.

(3) ((~~$4,000,000 of the forest and fish support account—state appropriation is provided solely for adaptive management, monitoring, and participation grants to tribes. If federal funding for this purpose is reinstated, the amount provided in this subsection shall lapse.~~

~~(4) $333,000 of the forest and fish support account—state appropriation is provided solely for adaptive management, monitoring, and participation grants to nongovernmental organizations.~~

~~(5) $487,000~~)) $4,500,000 of the forest and fish support account—state appropriation is provided solely for outcome-based, performance contracts with tribes to participate in the implementation of the forest practices program. Contracts awarded in fiscal year 2013 may only contain indirect costs set at or below the rate in the contracting tribe's indirect cost agreement with the federal government. If federal funding for this purpose is reinstated, the amount provided in this subsection shall lapse.

(4) $518,000 of the forest and fish support account—state appropriation is provided solely for outcome-based performance contracts with nongovernmental organizations to participate in the implementation of the forest practices program. Contracts awarded in fiscal year 2013 may only contain indirect cost set at or below a rate of eighteen percent.

(5) During the 2011-2013 fiscal biennium, $717,000 of the ((~~general fund~~)) forest and fish support account—state appropriation is provided solely to fund interagency agreements with the department of ecology and the department of fish and wildlife as part of the adaptive management process.

(6) $1,000,000 of the general fund—federal appropriation and $1,000,000 of the forest and fish support account—state appropriation are provided solely

for continuing scientific studies already underway as part of the adaptive management process. Funds may not be used to initiate new studies unless the department secures new federal funding for the adaptive management process.

(7) The department is authorized to increase the silviculture burning permit fee in the 2011-2013 biennium by up to eighty dollars plus fifty cents per ton for each ton of material burned in excess of one hundred tons.

(8) $440,000 of the state general fund—state appropriation for fiscal year 2012 and $440,000 of the state general fund—state appropriation for fiscal year 2013 are provided solely for forest work crews that support correctional camps and are contingent upon continuing operations of Naselle youth camp.

(9) By September 1, 2011, the department shall update its interagency agreement dated September 30, 2010, with the department of fish and wildlife concerning land management services on the department of fish and wildlife's wildlife conservation and recreation lands. The update shall include rates and terms for services.

(10) In partnership with the department of ecology, the departments shall deliver a report to the governor, the appropriate committees of the legislature, and the forest practices board by September 1, 2012, documenting forest practices adaptive management program reforms implemented, or recommended, that streamline existing processes to increase program efficiencies and effectiveness. The departments shall collaborate with interested adaptive management program participants in the development of the report.

(11)(a) $2,100,000 of the marine resources stewardship account—state appropriation is provided solely for the implementation of chapter 252, Laws of 2012 (marine management planning) and 43.372 RCW. The department will work with the marine interagency team, tribes, and the Washington state marine resource committee to develop a spending plan consistent with the priorities in chapter 252, Laws of 2012, for conducting ecosystem assessments and mapping activities related to marine resources use and potential economic development, developing marine management plans for the state's coastal waters, and otherwise aiding in the implementation of marine planning in the state. As appropriate, the team shall develop a competitive process for projects to be funded by the department in fiscal year 2013.

(b) The department, in consultation with the marine interagency team, shall submit to the office of financial management and the appropriate legislative committees by September 1, 2012, a prioritized list of projects and activities for funding consideration through the marine resources stewardship account in the 2013-2015 fiscal biennium.

(12)(a) Within existing funds and upon request of a qualifying marina under (b) of this subsection, the department of natural resources shall promptly redetermine annual rent for that marina consistent with (c) of this subsection.

(b) A marina is a qualifying marina under this subsection if it:

(i) Is a for-profit entity occupying state-owned aquatic lands and provides vessel moorage for a fee or includes marina slips within the definition of a unit for condominium purposes, but is not a homeowner association, a facility that provides moorage exclusively for floating homes, a community boating club or yacht club, or a facility that is entirely dedicated to providing public use and access under a no-fee public use and access agreement;

(ii) Is located in the competitive marina market in either: The largest city within the second most populous county of the state, as determined by population on the effective date of this section; or a county composed entirely of islands and adjacent areas of the mainland to that county;

(iii) Has an upland value for purposes of rent determination under RCW 79.105.240 that is more than forty-five percent above the average of the upland values of all the marinas within a five-mile radius centered around that marina; and

(iv) Meets one of the following criteria: Currently provides for public access; must provide public access as a condition for future approval of a substantial development permit under chapter 90.58 RCW; or is owned by a person who also owns the upland tax parcel used in conjunction with the lease area and who provides public access on the upland parcel or must provide public access on the upland parcel as a condition for future approval of a substantial development permit under chapter 90.58 RCW.

(c) The upland value used to calculate the rent for a qualifying marina under (b) of this subsection will be a value that is forty-five percent above the average of the upland values, as determined under RCW 79.105.240, of all the marinas within a five-mile radius centered on that marina.

(13) $780,000 of the forest practices application account—state appropriation, $18,000 of the forest development account—state appropriation, $23,000 of the resources management cost account—state appropriation, and $2,000 of the surface mining reclamation account—state appropriation are provided solely for the implementation of Second Engrossed Substitute Senate Bill No. 6406 (state natural resources). If the bill is not enacted by June 30, 2012, the amounts provided in this subsection shall lapse.

***Sec. 308 was partially vetoed. See message at end of chapter.**

Sec. 309. 2011 2nd sp.s. c 9 s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$15,484,000~~)) $15,434,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$14,875,000~~)) $14,537,000

General Fund—Federal Appropriation . . . . . ((~~$22,940,000~~)) $22,793,000

General Fund—Private/Local Appropriation $190,000

Aquatic Lands Enhancement Account—State Appropriation . . . . . ((~~$2,553,000~~)) $2,544,000

State Toxics Control Account—State Appropriation . . . . . ((~~$5,118,000~~)) $5,089,000

Water Quality Permit Account—State Appropriation $60,000

Freshwater Aquatic Weeds Account—State Appropriation $280,000

TOTAL APPROPRIATION . . . . . ((~~$61,500,000~~)) $60,927,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $5,308,445 of the general fund—state appropriation for fiscal year 2012 and $5,302,905 of the general fund—state appropriation for fiscal year 2013 are provided solely for implementing the food assistance program as defined in RCW 43.23.290.

(2) Pursuant to RCW 43.135.055, the department is authorized to increase the following fees in the 2011-2013 fiscal biennium as necessary to meet the actual costs of conducting business: Fruit and vegetable platform inspections; grain program services; warehouse audits; requested inspections; seed inspections, testing, sampling and certifications; phytosanitary certifications for seed; commission merchants; and sod quality seed tags and tagging. In addition, pursuant to RCW 43.135.055, 17.21.134, and 15.58.240, the department is authorized to establish pesticide license examination fees.

Sec. 310. 2011 2nd sp.s. c 9 s 310 (uncodified) is amended to read as follows:

FOR THE WASHINGTON POLLUTION LIABILITY INSURANCE PROGRAM

Pollution Liability Insurance Program Trust Account—State Appropriation . . . . . ((~~$668,000~~)) $661,000

Sec. 311. 2011 2nd sp.s. c 9 s 311 (uncodified) is amended to read as follows:

FOR THE PUGET SOUND PARTNERSHIP

General Fund—State Appropriation (FY 2012) . . . . . ((~~$2,399,000~~)) $2,273,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$2,424,000~~)) $2,253,000

General Fund—Federal Appropriation . . . . . ((~~$9,581,000~~)) $12,428,000

General Fund—Private/Local Appropriation $25,000

Aquatic Lands Enhancement Account—State Appropriation $493,000

State Toxics Control Account—State Appropriation . . . . . ((~~$665,000~~)) $658,000

TOTAL APPROPRIATION . . . . . ((~~$15,587,000~~)) $18,130,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $665,000 of the state toxics control account—state appropriation is provided solely for activities that contribute to Puget Sound protection and recovery, including provision of independent advice and assessment of the state's oil spill prevention, preparedness, and response programs, including review of existing activities and recommendations for any necessary improvements. The partnership may carry out this function through an existing committee, such as the ecosystem coordination board or the leadership council, or may appoint a special advisory council. Because this is a unique statewide program, the partnership may invite participation from outside the Puget Sound region.

(2) Within the amounts appropriated in this section, the Puget Sound partnership shall facilitate an ongoing monitoring consortium to integrate monitoring efforts for storm water, water quality, watershed health, and other indicators to enhance monitoring efforts in Puget Sound.

PART IV
TRANSPORTATION

Sec. 401. 2011 2nd sp.s. c 9 s 401 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

General Fund—State Appropriation (FY 2012) . . . . . ((~~$1,167,000~~))
$1,163,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$1,307,000~~))
$1,279,000
Architects' License Account—State Appropriation . . . . . ((~~$1,084,000~~))
$1,075,000
Professional Engineers' Account—State
Appropriation. . . . . ((~~$3,518,000~~))
$3,490,000
Real Estate Commission Account—State Appropriation . . . . . ((~~$9,833,000~~))
$9,696,000
Uniform Commercial Code Account—State
Appropriation. . . . . ((~~$3,120,000~~))
$3,105,000
Real Estate Education Account—State Appropriation $276,000
Real Estate Appraiser Commission Account—State
Appropriation. . . . . ((~~$1,687,000~~))
$1,656,000
Business and Professions Account—State
Appropriation. . . . . ((~~$15,592,000~~))
$15,609,000
Real Estate Research Account—State Appropriation. $622,000
Geologists' Account—State Appropriation. $51,000
Derelict Vessel Removal Account—State Appropriation $31,000
TOTAL APPROPRIATION . . . . . ((~~$38,288,000~~))
$38,053,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees for collection agencies. This increase is necessary to support the expenditures authorized in this section, consistent with RCW 43.24.086.

(2) $8,000 of the business and professions account—state appropriation is provided solely to implement Substitute Senate Bill No. 5574 (collection agencies).

(3) $150,000 of the business and professions account—state appropriation is provided solely to implement Substitute House Bill No. 2301 (mixed martial arts, boxing, martial arts, and wrestling). Pursuant to RCW 43.135.055 and

43.24.086, the department is authorized to charge and increase fees to defray the cost of administering the program, consistent with RCW 67.08.105. If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(4) Pursuant to RCW 43.135.055 and 43.24.086, the department is authorized to increase fees for the camping resort program. This increase is necessary to support the expenditures authorized in this section, consistent with RCW 19.105.411.

Sec. 402. 2011 2nd sp.s. c 9 s 402 (uncodified) is amended to read as follows:

FOR THE STATE PATROL

General Fund—State Appropriation (FY 2012) . . . . . ((~~$37,352,000~~)) $35,395,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$35,108,000~~)) $32,323,000

General Fund—Federal Appropriation $16,081,000

General Fund—Private/Local Appropriation $3,021,000

Death Investigations Account—State Appropriation . . . . . ((~~$5,551,000~~)) $5,537,000

County Criminal Justice Assistance Account—State Appropriation. . . . . ((~~$3,215,000~~)) $3,207,000

Municipal Criminal Justice Assistance Account—State Appropriation. . . . . ((~~$1,290,000~~)) $1,286,000

Fire Service Trust Account—State Appropriation $131,000

Disaster Response Account—State Appropriation $8,002,000

Fire Service Training Account—State Appropriation . . . . . ((~~$9,394,000~~)) $9,386,000

Aquatic Invasive Species Enforcement Account—State Appropriation. $54,000

State Toxics Control Account—State Appropriation $505,000

Fingerprint Identification Account—State Appropriation. . . . . ((~~$10,090,000~~)) $10,067,000

Vehicle License Fraud Account—State Appropriation. . . . . ((~~$339,000~~)) $437,000

TOTAL APPROPRIATION . . . . . ((~~$130,133,000~~)) $125,432,000

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 the state director of fire protection 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) $8,000,000 of the disaster response account—state appropriation is provided solely for Washington state fire service resource mobilization costs

incurred in response to an emergency or disaster authorized under RCW 43.43.960 and 43.43.964. The state patrol shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from this account. This work shall be done in coordination with the military department.

(3) $400,000 of the fire service training account—state appropriation is provided solely for the firefighter apprenticeship training program.

(4) In accordance with RCW 43.43.742 the state patrol is authorized to increase the following fees in fiscal year 2012 as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Notary service fee.

(5) $59,000 of the fingerprint identification account—state appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 1776 (child care center licensing). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(6) $6,000 of the fingerprint identification account—state appropriation is provided solely for implementation of Engrossed Substitute House Bill No. 1494 (vulnerable adult referrals). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(7) $1,000 of the fingerprint identification account—state appropriation is provided solely for implementation of Engrossed Senate Bill No. 6296 (background checks). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

PART V
EDUCATION

Sec. 501. 2011 2nd sp.s. c 9 s 501 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

General Fund—State Appropriation (FY 2012) . . . . . ((~~$25,406,000~~)) $25,322,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$22,502,000~~)) $27,133,000

General Fund—Federal Appropriation . . . . . ((~~$77,065,000~~)) $77,011,000

General Fund—Private/Local Appropriation $4,000,000

TOTAL APPROPRIATION . . . . . ((~~$128,973,000~~)) $133,466,000

The appropriations in this section are subject to the following conditions and limitations:

(1) A maximum of ((~~$16,139,000~~)) $16,056,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$13,335,000~~)) $14,875,000 of the general fund—state appropriation for fiscal year 2013 is for state agency operations.

(a) ((~~$9,775,000~~)) $9,692,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$8,532,000~~)) $8,169,000 of the general fund—state

appropriation for fiscal year 2013 are provided solely for the operation and expenses of the office of the superintendent of public instruction.

(i) Within the amounts provided in this subsection (1)(a), the superintendent shall recognize the extraordinary accomplishments of four students who have demonstrated a strong understanding of the civics essential learning requirements to receive the Daniel J. Evans civic education award.

(ii) By January 1, 2012, the office of the superintendent of public instruction shall issue a report to the legislature with a timeline and an estimate of costs for implementation of the common core standards. The report must incorporate feedback from an open public forum for recommendations to enhance the standards, particularly in math.

(iii) Within the amounts provided, and in consultation with the public school employees of Washington and the Washington school counselors' association, the office of the superintendent of public instruction shall develop a model policy that further defines the recommended roles and responsibilities of graduation coaches and identifies best practices for how graduation coaches work in coordination with school counselors and in the context of a comprehensive school guidance and counseling program.

(iv) The office of the superintendent of public instruction shall, no later than August 1, 2011, establish a standard statewide definition of unexcused absence. The definition shall be reported to the ways and means committees of the senate and house of representatives for legislative review in the 2012 legislative session. Beginning no later than January 1, 2012, districts shall report to the office of the superintendent of public instruction, daily student unexcused absence data by school.

(b) $1,964,000 of the general fund—state appropriation for fiscal year 2012 and $1,017,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for activities associated with the implementation of new school finance systems required by chapter 236, Laws of 2010 (K-12 education funding) and chapter 548, Laws of 2009 (state's education system), including technical staff, systems reprogramming, and workgroup deliberations, including the quality education council and the data governance working group.

(c) $851,000 of the general fund—state appropriation for fiscal year 2012 and $851,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(d) $1,744,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$1,362,000~~)) $1,387,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to the professional educator standards board for the following:

(i) $1,050,000 in fiscal year 2012 and $1,050,000 in fiscal year 2013 are for the operation and expenses of the Washington professional educator standards board; and

(ii) $694,000 of the general fund—state appropriation for fiscal year 2012 and $312,000 of the general fund—state appropriation for fiscal year 2013 are for conditional scholarship loans and mentor stipends provided through the alternative routes to certification program administered by the professional educator standards board, including the pipeline for paraeducators program and the retooling to teach conditional loan programs. Funding within this subsection

(1)(d)(ii) is also provided for the recruiting Washington teachers program. Funding reductions in this subsection (1)(d)(ii) in the 2011-2013 fiscal biennium are intended to be one-time; and

(iii) $25,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the professional educator standards board to develop educator interpreter standards and identify interpreter assessments that are available to school districts. Interpreter assessments should meet the following criteria: (A) Include both written assessment and performance assessment; (B) be offered by a national organization of professional sign language interpreters and transliterators; and (C) be designed to assess performance in more than one sign system or sign language. The board shall establish a performance standard, defining what constitutes a minimum assessment result, for each educational interpreter assessment identified. The board shall publicize the standards and assessments for school district use.

(e) $133,000 of the general fund—state appropriation for fiscal year 2012 and $133,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the implementation of chapter 240, Laws of 2010, including staffing the office of equity and civil rights.

(f) $50,000 of the general fund—state appropriation for fiscal year 2012 and $50,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the ongoing work of the education opportunity gap oversight and accountability committee.

(g) $45,000 of the general fund—state appropriation for fiscal year 2012 and $45,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the implementation of chapter 380, Laws of 2009 (enacting the interstate compact on educational opportunity for military children).

(h) $159,000 of the general fund—state appropriation for fiscal year 2012 and $93,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the implementation of chapter 185, Laws of 2011 (bullying prevention), which requires the office of the superintendent of public instruction to convene an ongoing workgroup on school bullying and harassment prevention. Within the amounts provided, $140,000 is for youth suicide prevention activities.

(i) $1,227,000 of the general fund—state appropriation for fiscal year 2012 and $1,227,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for implementing a comprehensive data system to include financial, student, and educator data, including development and maintenance of the comprehensive education data and research system (CEDARS).

(j) $25,000 of the general fund—state appropriation for fiscal year 2012 and $25,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for project citizen, a program sponsored by the national conference of state legislatures and the center for civic education to promote participation in government by middle school students.

(k) $166,000 of the general fund—state appropriation for fiscal year 2012 is provided solely for the implementation of chapter 192, Laws of 2011 (school district insolvency). Funding is provided to develop a clear legal framework and process for dissolution of a school district.

(l) $1,500,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for implementation of House Bill No. 2799 (collaborative

schools). If such legislation is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(m) $128,000 of the general fund—state appropriation for fiscal year 2013 is provided solely pursuant to Substitute House Bill No. 2254 (foster care outcomes). The office of the superintendent of public instruction shall report on the implementation of the state's plan of cross-system collaboration to promote educational stability and improve education outcomes of foster youth. The first report is due December 1, 2012, and annually thereafter through 2015. If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(n) $250,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for implementation of House Bill No. 2337 (open K-12 education resources). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(2) $9,267,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$9,167,000~~)) $12,267,000 of the general fund—state appropriation for fiscal year 2013 are for statewide programs.

(a) HEALTH AND SAFETY

(i) $2,541,000 of the general fund—state appropriation for fiscal year 2012 and $2,541,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) $50,000 of the general fund—state appropriation for fiscal year 2012 and $50,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for a nonviolence and leadership training program provided by the institute for community leadership.

(b) TECHNOLOGY

$1,221,000 of the general fund—state appropriation for fiscal year 2012 and $1,221,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for K-20 telecommunications network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(c) GRANTS AND ALLOCATIONS

(i) $675,000 of the general fund—state appropriation for fiscal year 2012 and $675,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

(ii) $1,000,000 of the general fund—state appropriation for fiscal year 2012 and $1,000,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for contracting with a college scholarship organization with expertise in conducting outreach to students concerning eligibility for the

Washington college bound scholarship consistent with chapter 405, Laws of 2007.

(iii) $2,808,000 of the general fund—state appropriation for fiscal year 2012 and $2,808,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the dissemination of the navigation 101 curriculum to all districts. The funding shall support electronic student planning tools and software for analyzing the impact of navigation 101 on student performance, as well as grants to a maximum of one hundred school districts each year, based on progress and need for the implementation of the navigation 101 program. The implementation grants shall be awarded to a cross-section of school districts reflecting a balance of geographic and demographic characteristics. Within the amounts provided, the office of the superintendent of public instruction will create a navigation 101 accountability model to analyze the impact of the program.

(iv) $337,000 of the general fund—state appropriation for fiscal year 2012 and $337,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for implementation of the building bridges statewide program for comprehensive dropout prevention, intervention, and reengagement strategies.

(v) $135,000 of the general fund—state appropriation for fiscal year 2012 and $135,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for dropout prevention programs at the office of the superintendent of public instruction, including the jobs for America's graduates (JAG) program.

(vi) $500,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$400,000~~)) $1,400,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the implementation of chapter 340, Laws of 2011 (assessment of students in state-funded full-day kindergarten classrooms), including the development and implementation of the Washington kindergarten inventory of developing skills (WaKIDS). Of the amounts in this subsection, $1,000,000 of the fiscal year 2013 appropriation is for the implementation of House Bill No. 2586 (kindergarten inventory). If the bill is not enacted by June 30, 2012, this amount shall lapse.

(vii) $2,000,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for an urban school turnaround initiative as follows:

(A) The office of the superintendent of public instruction shall select two schools in the largest urban school district in the state. The selected schools shall be among the state's lowest-performing schools; be located within the same community and form a continuum of education for the students in that community; have significant educational achievement gaps; and include a mix of elementary, middle, or high schools.

(B) The office shall allocate the funds under this subsection (vii) to the school district to be used exclusively in the selected schools. The district may not charge an overhead or indirect fee for the allocated funds or supplant other state, federal, or local funds in the selected schools. The school district shall use the funds for intensive supplemental instruction, services, and materials in the selected schools in the 2012-13 school year, including but not limited to professional development for school staff; updated curriculum, materials, and technology; extended learning opportunities for students; reduced class size;

summer enrichment activities; school-based health clinics; and other research-based initiatives to dramatically turn around the performance and close the achievement gap in the schools. Priorities for the expenditure of the funds shall be determined by the leadership and staff of each school.

(C) The office shall monitor the activities in the selected schools and the expenditure of funds to ensure the intent of this subsection (vii) is met, and submit a report to the legislature by December 1, 2013, including outcomes resulting from the urban school turnaround initiative. The report submitted to the legislature must include a comparison of student learning achievement in the selected schools with schools of comparable demographics that have not participated in the grant program.

(D) Funding provided in this subsection (vii) is intended to be one-time.

(viii) $100,000 of the general fund—state appropriation for fiscal year 2013 is provided solely to subsidize advanced placement exam fees and international baccalaureate class fees and exam fees for low-income students. To be eligible for the subsidy, a student must be either enrolled or eligible to participate in the federal free or reduced price lunch program, and the student must have maximized the allowable federal contribution. The office of the superintendent of public instruction shall set the subsidy in an amount so that the advanced placement exam fee does not exceed $15.00 and the combined class and exam fee for the international baccalaureate does not exceed $14.50.

Sec. 502. 2011 2nd sp.s. c 9 s 502 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT

General Fund—State Appropriation (FY 2012) . . . . . ((~~$5,253,769,000~~))
$5,241,233,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$5,205,868,000~~))
$5,170,854,000

General Fund—Federal Appropriation . . . . . ((~~$22,078,000~~))
$22,327,000

TOTAL APPROPRIATION . . . . . ((~~$10,481,715,000~~))
$10,434,414,000

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) 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.

(b) For the 2011-12 and 2012-13 school years, the superintendent shall allocate general apportionment funding to school districts as provided in the funding formulas and salary schedules in sections 502 and 503 of this act, excluding (c) of this subsection.

(c) From July 1, 2011 to August 31, 2011, the superintendent shall allocate general apportionment funding to school districts programs as provided in sections 502 and 504, chapter 564, Laws of 2009, as amended through sections 1402 and 1403 of this act.

(d) The appropriations in this section include federal funds provided through section 101 of P.L. No. 111-226 (education jobs fund), which shall be

used to support general apportionment program funding. In distributing general apportionment allocations under this section for the 2011-12 school year, the superintendent shall include the additional amount of ((~~$3,078,000~~)) $3,327,000 allocated by the United States department of education on September 16, 2011, provided through 101 of P.L. No. 111-226 (education jobs fund) as part of each district's general apportionment allocation.

(e) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the fourth day of school in September and on the first school day of each month October through June, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. Any school district concluding its basic education program in May must report the enrollment of the last school day held in May in lieu of a June enrollment.

(2) CERTIFICATED INSTRUCTIONAL STAFF ALLOCATIONS

Allocations for certificated instructional staff salaries for the 2011-12 and 2012-13 school years are determined using formula-generated staff units calculated pursuant to this subsection.

(a) Certificated instructional staff units, as defined in RCW 28A.150.410, shall be allocated to reflect the minimum class size allocations, requirements, and school prototypes assumptions as provided in RCW 28A.150.260. The superintendent shall make allocations to school districts based on the district's annual average full-time equivalent student enrollment in each grade.

(b) Additional certificated instructional staff units provided in this subsection (2) that exceed the minimum requirements in RCW 28A.150.260 are enhancements outside the program of basic education, except as otherwise provided in this section.

(c)(i) The superintendent shall base allocations for each level of prototypical school on the following regular education average class size of full-time equivalent students per teacher, except as provided in (c)(ii) of this subsection:

General education class size:

Grade	RCW 28A.150.260
Grades K-3	25.23
Grade 4	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12	28.74

The superintendent shall base allocations for career and technical education (CTE) and skill center programs average class size as provided in RCW 28A.150.260.

(ii) For each level of prototypical school at which more than fifty percent of the students were eligible for free and reduced-price meals in the prior school year, the superintendent shall allocate funding based on the following average class size of full-time equivalent students per teacher:

General education class size in high poverty school:

Grades K-3	. . . . .	24.10
Grade 4	. . . . .	27.00
Grades 5-6	. . . . .	27.00
Grades 7-8	. . . . .	28.53
Grades 9-12	. . . . .	28.74

(iii) Pursuant to RCW 28A.150.260(4)(a), the assumed teacher planning period, expressed as a percentage of a teacher work day, is 13.42 percent in grades K-6, and 16.67 percent in grades 7-12; and

(iv) Laboratory science, advanced placement, and international baccalaureate courses are funded at the same class size assumptions as general education schools in the same grade; and

(d)(i) Funding for teacher librarians, school nurses, social workers, school psychologists, and guidance counselors is allocated based on the school prototypes as provided in RCW 28A.150.260 and is considered certificated instructional staff, except as provided in (d)(ii) of this subsection.

(ii) Students in approved career and technical education and skill center programs generate certificated instructional staff units to provide for the services of teacher librarians, school nurses, social workers, school psychologists, and guidance counselors at the following combined rate per 1000 students:

Career and Technical Education students . . . . . 2.02 per 1000 student FTE's
Skill Center students . . . . . 2.36 per 1000 student FTE's

(3) ADMINISTRATIVE STAFF ALLOCATIONS

(a) Allocations for school building-level certificated administrative staff salaries for the 2011-12 and 2012-13 school years for general education students are determined using the formula-generated staff units provided in RCW 28A.150.260, and adjusted based on a district's annual average full-time equivalent student enrollment in each grade.

(b) Students in approved career and technical education and skill center programs generate certificated school building-level administrator staff units at per student rates that exceed the general education rate in (a) of this subsection by the following percentages:

Career and Technical Education students . . . . . .2.5 percent
Skill Center students . . . . . 19.75 percent

(4) CLASSIFIED STAFF ALLOCATIONS

Allocations for classified staff units providing school building-level and district-wide support services for the 2011-12 and 2012-13 school years are determined using the formula-generated staff units provided in RCW 28A.150.260, and adjusted based on each district's annual average full-time equivalent student enrollment in each grade.

(5) CENTRAL OFFICE ALLOCATIONS

In addition to classified and administrative staff units allocated in subsections (3) and (4) of this section, classified and administrative staff units

are provided for the 2011-12 and 2012-13 school year for the central office administrative costs of operating a school district, at the following rates:

(a) The total central office staff units provided in this subsection (5) are calculated by first multiplying the total number of eligible certificated instructional, certificated administrative, and classified staff units providing school-based or district-wide support services, as identified in RCW 28A.150.260(6)(b), by 5.3 percent.

(b) Of the central office staff units calculated in (a) of this subsection, 74.53 percent are allocated as classified staff units, as generated in subsection (4) of this section, and 25.47 percent shall be allocated as administrative staff units, as generated in subsection (3) of this section.

(c) Staff units generated as enhancements outside the program of basic education to the minimum requirements of RCW 28A.150.260, and staff units generated by skill center and career-technical students, are excluded from the total central office staff units calculation in (a) of this subsection.

(d) For students in approved career-technical and skill center programs, central office classified units are allocated at the same staff unit per student rate as those generated for general education students of the same grade in this subsection (5), and central office administrative staff units are allocated at staff unit per student rates that exceed the general education rate established for students in the same grade in this subsection (5) by 3.69 percent for career and technical education students, and 21.92 percent for skill center students.

(6) FRINGE BENEFIT ALLOCATIONS

Fringe benefit allocations shall be calculated at a rate of 16.33 percent in the 2011-12 school year and ((~~16.33~~)) 16.34 percent in the 2012-13 school year for certificated salary allocations provided under subsections (2), (3), and (5) of this section, and a rate of 18.73 percent in the 2011-12 school year and 18.73 percent in the 2012-13 school year for classified salary allocations provided under subsections (4) and (5) of this section.

(7) INSURANCE BENEFIT ALLOCATIONS

Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504 of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsections (2), (3), and (5) of this section; and

(b) The number of classified staff units determined in subsections (4) and (5) 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.

(8) MATERIALS, SUPPLIES, AND OPERATING COSTS (MSOC) ALLOCATIONS

Funding is allocated per annual average full-time equivalent student for the materials, supplies, and operating costs (MSOC) incurred by school districts, consistent with the requirements of RCW 28A.150.260.

(a) MSOC funding for general education students are allocated at the following per student rates:

MSOC RATES/STUDENT FTE

MSOC Component	2011-12 SCHOOL YEAR	2012-13 SCHOOL YEAR
Technology	$57.42	((~~$58.17~~)) $58.28
Utilities and Insurance	$156.03	((~~$158.05~~)) $158.37
Curriculum and Textbooks	$61.65	((~~$62.45~~)) $62.58
Other Supplies and Library Materials	$130.89	((~~$132.59~~)) $132.85
Instructional Professional Development for Certificated and Classified Staff	$9.53	((~~$9.66~~)) $9.68
Facilities Maintenance	$77.30	((~~$78.30~~)) $78.46
Security and Central Office	$53.55	((~~$54.25~~)) $54.35
TOTAL BASIC EDUCATION MSOC/STUDENT FTE	$546.37	((~~$553.47~~)) $554.57

(b) Students in approved skill center programs generate per student FTE MSOC allocations which equal the rate for general education students calculated in (a) of this subsection, multiplied by a factor of 2.171.

(c) Students in approved exploratory and preparatory career and technical education programs generate a per student MSOC allocation that is equal to the rate for general education students calculated in (a) of this subsection, multiplied by a factor of 2.442.

(d) Students in laboratory science courses generate per student FTE MSOC allocations which equal the per student FTE rate for general education students established in (a) of this subsection.

(9) SUBSTITUTE TEACHER ALLOCATIONS

For the 2011-12 and 2012-13 school years, funding for substitute costs for classroom teachers is based on four (4) funded substitute days per classroom teacher unit generated under subsection (2) of this section, at a daily substitute rate of $151.86.

(10) ALTERNATIVE LEARNING EXPERIENCE PROGRAM FUNDING

(a) Amounts provided in this section are adjusted to reflect provisions of House Bill No. 2065 (allocation of funding for funding for students enrolled in alternative learning experiences).

(b) The superintendent of public instruction shall require all districts receiving general apportionment funding for alternative learning experience (ALE) programs as defined in WAC 392-121-182 to provide separate financial accounting of expenditures for the ALE programs offered in district or with a provider, including but not limited to private companies and multidistrict

cooperatives, as well as accurate, monthly headcount and FTE enrollment claimed for basic education, including separate counts of resident and nonresident students.

(11) VOLUNTARY FULL DAY KINDERGARTEN PROGRAMS

Funding in this section is sufficient to fund voluntary full day kindergarten programs in qualifying high poverty schools, pursuant to RCW 28A.150.220 and 28A.150.315. Each kindergarten student who enrolls for the voluntary full-day program in a qualifying school shall count as one-half of one full-time equivalent student for purpose of making allocations under this section. Funding in this section provides full-day kindergarten programs for 21 percent of kindergarten enrollment in the 2011-12 school year, and 22 percent in the 2012-13 school year. Funding priority shall be given to schools with the highest poverty levels, as measured by prior year free and reduced price lunch eligibility rates in each school. Funding in this section is sufficient to fund voluntary full day kindergarten programs for July and August of the 2010-11 school year.

(12) ADDITIONAL FUNDING FOR SMALL SCHOOL DISTRICTS AND REMOTE AND NECESSARY PLANTS

For small school districts and remote and necessary school plants within any district which have been judged to be remote and necessary by the superintendent of public instruction, additional staff units are provided to ensure a minimum level of staffing support. Additional administrative and certificated instructional staff units provided to districts in this subsection shall be reduced by the general education staff units, excluding career and technical education and skills center enhancement units, otherwise provided in subsections (2) through (5) of this section on a per district basis.

(a) 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 superintendent of public instruction 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;

(b) 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 superintendent of public instruction:

(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;

(c) 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, except as noted in this subsection:

(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;

(iii) Districts receiving staff units under this subsection shall add students enrolled in a district alternative high school and any grades nine through twelve alternative learning experience programs with the small high school enrollment for calculations under this subsection;

(d) 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;

(e) 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;

(f)(i) For enrollments generating certificated staff unit allocations under (a) through (e) of this subsection, one classified staff unit for each 2.94 certificated staff units allocated under such subsections;

(ii) 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; and

(g) School districts receiving additional staff units to support small student enrollments and remote and necessary plants under subsection (12) of this section shall generate additional MSOC allocations consistent with the nonemployee related costs (NERC) allocation formula in place for the 2010-11 school year as provided section 502, chapter 37, Laws of 2010 1st sp. sess. (2010 supplemental budget), adjusted annually for inflation.

(13) 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.

(14) The superintendent may distribute funding for the following programs outside the basic education formula during fiscal years 2012 and 2013 as follows:

(a) $589,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$597,000~~)) $598,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW.

(b) $436,000 of the general fund—state appropriation for fiscal year 2012 and $436,000 of the general fund—state appropriation for fiscal year 2013 are provided solely 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.

(c) Funding in this section is sufficient to fund adjustments to school districts' allocations resulting from the implementation of the prototypical school funding formula, pursuant to chapter 236, Laws of 2010 (K-12 education funding). The funding in this section is intended to hold school districts harmless in total for funding changes resulting from conversion to the prototypical school formula in the general apportionment program, the learning assistance program, the transitional bilingual program, and the highly capable program, after adjustment for changes in enrollment and other caseload adjustments.

(15) $208,000 of the general fund—state appropriation for fiscal year 2012 and $211,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for school district emergencies as certified by the superintendent of public instruction. At the close of the fiscal year the superintendent of public instruction shall report to the office of financial management and the appropriate fiscal committees of the legislature on the allocations provided to districts and the nature of the emergency.

(16) Funding in this section is sufficient to fund a maximum of 1.6 FTE enrollment for skills center students pursuant to chapter 463, Laws of 2007.

(17) Beginning in the 2011-12 school year, students participating in running start programs may be funded up to a combined maximum enrollment of 1.2 FTE including school district and institution of higher education enrollment. In calculating the combined 1.2 FTE, the office of the superintendent of public instruction may average the participating student's September through June enrollment to account for differences in the start and end dates for courses provided by the high school and higher education institution. Additionally, the office of the superintendent of public instruction, in consultation with the state board for community and technical colleges, the higher education coordinating board, and the education data center, shall annually track and report to the fiscal committees of the legislature on the combined FTE experience of students participating in the running start program, including course load analyses at both the high school and community and technical college system.

(18) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (12) of this section, the following 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 (12) of this section shall be reduced in increments of twenty percent per year.

(19)(a) Indirect cost charges by a school district to approved career and technical education middle and secondary programs shall not exceed 15 percent of the combined basic education and career and technical education program enhancement allocations of state funds. Middle and secondary career and technical education programs are considered separate programs for funding and financial reporting purposes under this section.

(b) Career and technical education program 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 career and technical education program enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support.

Sec. 503. 2011 2nd sp.s. c 9 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 state allocations for certificated instructional, certificated administrative, and classified staff units as provided in RCW 28A.150.280 and under section 503 of this act:

(a) Salary allocations for certificated instructional staff units are determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 2 by the district's average staff mix factor for certificated instructional staff in that school year, computed using LEAP document 1; and

(b) Salary allocations for certificated administrative staff units and classified staff units for each district are determined based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 2.

(2) For the purposes of this section:

(a) "LEAP Document 1" means the 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 May 23, 2011, at 16:10 hours; and

(b) "LEAP Document 2" means the 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 May 23, 2011, at 16:10 hours.

(3) Incremental fringe benefit factors are applied to salary adjustments at a rate of 15.69 percent for school year 2011-12 and ((~~15.69~~)) 15.70 percent for school year 2012-13 for certificated instructional and certificated administrative staff and 15.23 percent for school year 2011-12 and 15.23 percent for the 2012-13 school year for classified staff.

(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:

Table Of Total Base Salaries For Certificated Instructional Staff For School Year 2011-12
Education Experience

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 OR Ph.D.
0	33,401	34,303	35,238	36,175	39,180	41,116	40,045	43,051	44,989
1	33,851	34,765	35,712	36,690	39,727	41,652	40,490	43,527	45,452
2	34,279	35,202	36,159	37,212	40,241	42,186	40,938	43,966	45,912
3	34,720	35,653	36,620	37,706	40,729	42,722	41,363	44,384	46,377
4	35,153	36,127	37,099	38,224	41,264	43,271	41,808	44,849	46,857
5	35,600	36,578	37,561	38,748	41,777	43,824	42,261	45,291	47,339
6	36,060	37,017	38,032	39,279	42,293	44,352	42,725	45,740	47,797
7	36,868	37,839	38,868	40,182	43,241	45,356	43,594	46,652	48,768
8	38,050	39,074	40,127	41,550	44,651	46,844	44,961	48,063	50,254
9		40,353	41,459	42,933	46,106	48,373	46,343	49,518	51,785
10			42,806	44,387	47,602	49,945	47,798	51,014	53,356
11				45,883	49,169	51,558	49,295	52,581	54,969
12				47,332	50,777	53,238	50,850	54,188	56,650
13					52,425	54,959	52,460	55,836	58,370
14					54,081	56,745	54,117	57,600	60,157
15					55,488	58,221	55,523	59,098	61,721
16 or more					56,597	59,385	56,634	60,279	62,955

Table Of Total Base Salaries For Certificated Instructional Staff For School Year 2012-13
Education Experience

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 OR Ph.D.
0	33,401	34,303	35,238	36,175	39,180	41,116	40,045	43,051	44,989
1	33,851	34,765	35,712	36,690	39,727	41,652	40,490	43,527	45,452
2	34,279	35,202	36,159	37,212	40,241	42,186	40,938	43,966	45,912
3	34,720	35,653	36,620	37,706	40,729	42,722	41,363	44,384	46,377
4	35,153	36,127	37,099	38,224	41,264	43,271	41,808	44,849	46,857
5	35,600	36,578	37,561	38,748	41,777	43,824	42,261	45,291	47,339
6	36,060	37,017	38,032	39,279	42,293	44,352	42,725	45,740	47,797
7	36,868	37,839	38,868	40,182	43,241	45,356	43,594	46,652	48,768

8	38,050	39,074	40,127	41,550	44,651	46,844	44,961	48,063	50,254
9		40,353	41,459	42,933	46,106	48,373	46,343	49,518	51,785
10			42,806	44,387	47,602	49,945	47,798	51,014	53,356
11				45,883	49,169	51,558	49,295	52,581	54,969
12				47,332	50,777	53,238	50,850	54,188	56,650
13					52,425	54,959	52,460	55,836	58,370
14					54,081	56,745	54,117	57,600	60,157
15					55,488	58,221	55,523	59,098	61,721
16 or more					56,597	59,385	56,634	60,279	62,955

(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 part V, 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 salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2).

Sec. 504. 2011 2nd sp.s. c 9 s 504 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS

General Fund—Federal Appropriation $2,000

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) Additional salary adjustments as necessary to fund the base salaries for certificated instructional staff as listed for each district in LEAP Document 2, defined in section 504(2)(b) of this act. Allocations for these salary adjustments shall be provided to all districts that are not grandfathered to receive salary

allocations above the statewide salary allocation schedule, and to certain grandfathered districts to the extent necessary to ensure that salary allocations for districts that are currently grandfathered do not fall below the statewide salary allocation schedule.

(b) Additional salary adjustments to certain districts as necessary to fund the per full-time-equivalent salary allocations for certificated administrative staff as listed for each district in LEAP Document 2, defined in section 504(2)(b) of this act.

(c) Additional salary adjustments to certain districts as necessary to fund the per full-time-equivalent salary allocations for classified staff as listed for each district in LEAP Document 2, defined in section 504(2)(b) of this act.

(d) The appropriations in this subsection (1) include associated incremental fringe benefit allocations at 15.69 percent for the 2011-12 school year and ((~~15.69~~)) 15.70 percent for the 2012-13 school year for certificated instructional and certificated administrative staff and 15.23 percent for the 2011-12 school year and 15.23 percent for the 2012-13 school year for classified staff.

(e) The appropriations in this section include the increased or decreased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Changes for general apportionment (basic education) are based on the salary allocation schedules and methodology in sections 503 and 504 of this act. Changes for special education result from changes in each district's basic education allocation per student. Changes 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 503 and 504 of this act.

(f) The appropriations in this section include no salary adjustments for substitute teachers.

(2) The maintenance rate for insurance benefit allocations is $768.00 per month for the 2011-12 and 2012-13 school years. The appropriations in this section reflect the incremental change in cost of allocating rates of $768.00 per month for the 2011-12 school year and $768.00 per month for the 2012-13 school year.

(3) The rates specified in this section are subject to revision each year by the legislature.

***Sec. 505.** 2011 2nd sp.s. c 9 s 505 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION

General Fund—State Appropriation (FY 2012) . . . . . ((~~$322,033,000~~))
$322,243,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$273,380,000~~))
$273,642,000

TOTAL APPROPRIATION . . . . . ((~~$595,413,000~~))
$595,885,000

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) For the 2011-12 and 2012-13 school years, the superintendent shall allocate funding to school district programs for the transportation of students as provided in RCW 28A.160.192.

(b) From July 1, 2011 to August 31, 2011, the superintendent shall allocate funding to school districts programs for the transportation of students as provided in section 505, chapter 564, Laws of 2009, as amended through section 1404 of this act.

(3) Any amounts appropriated for maintenance level funding for pupil transportation that exceed actual maintenance level expenditures as calculated under the funding formula that takes effect September 1, 2011, shall be distributed to districts according to RCW 28A.160.192(2)(b).

(4) A maximum of $892,000 of this fiscal year 2012 appropriation and a maximum of $892,000 of the fiscal year 2013 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.

(5) The office of the superintendent of public instruction shall provide reimbursement funding to a school district for school bus purchases 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.

(6) The superintendent of public instruction shall base depreciation payments for school district buses on the pre-sales tax 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 lowest bid in the appropriate bus category for that school year.

(7) Funding levels in this section reflect waivers granted by the state board of education for four-day school weeks as allowed under RCW 28A.305.141.

(8) Starting with the 2012-13 school year, the office of the superintendent of public instruction shall disburse payments for bus depreciation in August.

(9) The office of the superintendent of public instruction shall develop, in consultation with the Washington association of school business officials and the Washington association for pupil transportation, a unit-cost transportation formula or hybrid formula for legislative consideration and potential adoption. The transportation-allocation formula shall take into account statistically significant cost drivers, recognize fixed costs, and simplify the current regression-analysis transportation-allocation method. The formula or hybrid formula developed should be based on currently collected data identified under RCW 28A.160.192(1)(a). These data are to include basic and special student loads, school district land area, average distance to school, roadway miles, and number of locations served. The office of the superintendent of public instruction shall report to the legislative fiscal committees, the education committees of the senate and the house of

representatives, and to the office of financial management by September 30, 2012, for legislative consideration and possible amendment or adoption of the unit-cost or hybrid formula for the 2013-14 school year.

***Sec. 505 was partially vetoed. See message at end of chapter.**

Sec. 506. 2011 2nd sp.s. c 9 s 507 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$653,904,000~~)) $648,369,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$694,237,000~~)) $679,832,000

General Fund—Federal Appropriation . . . . . ((~~$486,936,000~~)) $486,922,000

Education Legacy Trust Account—State Appropriation $756,000

TOTAL APPROPRIATION . . . . . ((~~$1,835,833,000~~)) $1,815,879,000

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 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 superintendent of public instruction shall continue to implement the full cost method of excess cost accounting, as designed by the committee and recommended by the superintendent, pursuant to section 501(1)(k), chapter 372, Laws of 2006.

(c) Beginning with the 2010-11 school year award cycle, the office of the superintendent of public instruction shall make award determinations for state safety net funding in August of each school year. Determinations on school district eligibility for state safety net awards shall be based on analysis of actual expenditure data from the current school year.

(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)(a) For the 2011-12 and 2012-13 school years, the superintendent shall allocate funding to school district programs for special education students as provided in RCW 28A.150.390.

(b) From July 1, 2011 to August 31, 2011, the superintendent shall allocate funding to school district programs for special education students as provided in section 507, chapter 564, Laws of 2009, as amended through section 1406 of this act.

(5) The following applies throughout this section: The definitions for enrollment and enrollment percent are as specified in RCW 28A.150.390(3). 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.

(6) 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 RCW 28A.150.390(3) (c) and (d), 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.

(7) $8,914,000 of the general fund—state appropriation for fiscal year 2012, $34,200,000 of the general fund—state appropriation for fiscal year 2013, and $29,574,000 of the general fund—federal appropriation are provided solely for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided in subsection (4) of this section. If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in this subsection (7) in any fiscal year, the superintendent shall expend all available federal discretionary funds necessary to meet this need. At the conclusion of each school year, the superintendent shall recover safety net funds that were distributed prospectively but for which districts were not subsequently eligible.

(a) For the 2011-12 and 2012-13 school years, safety net funds shall be awarded by the state safety net oversight committee as provided in section 109(1) chapter 548, Laws of 2009 (ESHB 2261).

(b) From July 1, 2011 to August 31, 2011, the superintendent shall operate the safety net oversight committee and shall award safety net funds as provided in section 507, chapter 564, Laws of 2009, as amended through section 1406 of this act.

(8) 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.

(9) 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.

(10) 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.

(11) $251,000 of the general fund—state appropriation for fiscal year 2012 and $251,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for two additional full-time equivalent staff to support the work

of the safety net committee and to provide training and support to districts applying for safety net awards.

(12) $50,000 of the general fund—state appropriation for fiscal year 2012, $50,000 of the general fund—state appropriation for fiscal year 2013, and $100,000 of the general fund—federal appropriation shall be expended to support a special education ombudsman program within the office of superintendent of public instruction.

Sec. 507. 2011 2nd sp.s. c 9 s 508 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$7,889,000~~))
$7,894,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$7,904,000~~))
$7,912,000

TOTAL APPROPRIATION . . . . . ((~~$15,793,000~~))
$15,806,000

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) Funding within this section is provided for regional professional development related to mathematics and science curriculum and instructional strategies. Funding shall be distributed among the educational service districts in the same proportion as distributions in the 2007-2009 biennium. Each educational service district shall use this funding solely for salary and benefits for a certificated instructional staff with expertise in the appropriate subject matter and in professional development delivery, and for travel, materials, and other expenditures related to providing regional professional development support.

(3) 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. 508. 2011 2nd sp.s. c 9 s 509 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$300,761,000~~))
$300,768,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$299,276,000~~))
$298,166,000

General Fund—Federal Appropriation $4,400,000

TOTAL APPROPRIATION . . . . . ((~~$600,037,000~~))
$603,334,000

The appropriations in this section are subject to the following conditions and limitations: For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 3 percent from the 2010-11 school year to the 2011-12 school year and 5 percent from the 2011-12 school year to the 2012-13 school year.

Sec. 509. 2011 2nd sp.s. c 9 s 510 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$17,507,000~~))
$16,694,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$16,969,000~~))
$15,867,000
TOTAL APPROPRIATION . . . . . ((~~$34,476,000~~))
$32,561,000

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) ((~~$669,000~~)) $586,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$669,000~~)) $549,000 of the general fund—state appropriation for fiscal year 2013 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, programs for juveniles under the juvenile rehabilitation administration, and programs for juveniles operated by city and county jails.

(6) Ten percent of the funds allocated for each institution may be carried over from one year to the next.

Sec. 510. 2011 2nd sp.s. c 9 s 511 (uncodified) is amended to read as follows:

FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$8,759,000~~)) $8,745,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$8,842,000~~)) $8,788,000

TOTAL APPROPRIATION . . . . . ((~~$17,601,000~~)) $17,533,000

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) For the 2011-12 and 2012-13 school years, the superintendent shall allocate funding to school district programs for highly capable students as provided in RCW 28A.150.260(10)(c). In calculating the allocations, the superintendent shall assume the following: (i) Additional instruction of 2.1590 hours per week per funded highly capable program student; (ii) fifteen highly capable program students per teacher; (iii) 36 instructional weeks per year; (iv) 900 instructional hours per teacher; and (v) the district's average staff mix and compensation rates as provided in sections 503 and 504 of this act.

(b) From July 1, 2011, to August 31, 2011, the superintendent shall allocate funding to school districts programs for highly capable students as provided in section 511, chapter 564, Laws of 2009, as amended through section 1409 of this act.

(3) $85,000 of the general fund—state appropriation for fiscal year 2012 and $85,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the centrum program at Fort Worden state park.

***Sec. 511.** 2011 2nd sp.s. c 9 s 513 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—EDUCATION REFORM PROGRAMS

General Fund—State Appropriation (FY 2012) $58,078,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$98,309,000~~)) $103,655,000

General Fund—Federal Appropriation . . . . . ((~~$219,161,000~~)) $219,147,000

General Fund—Private/Local Appropriation $4,000,000

Education Legacy Trust Account—State Appropriation . . . . . ((~~$1,598,000~~)) $1,596,000

TOTAL APPROPRIATION . . . . . ((~~$381,146,000~~)) $386,476,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $40,822,000 of the general fund—state appropriation for fiscal year 2012, ((~~$41,613,000~~)) $41,614,000 of the general fund—state appropriation for

fiscal year 2013, $1,350,000 of the education legacy trust account—state appropriation, and $15,868,000 of the general fund—federal appropriation are provided solely for development and implementation of the Washington state assessment system, including: (a) Development and implementation of retake assessments for high school students who are not successful in one or more content areas and (b) development and implementation 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 and implementation of alternative assessments or appeals procedures. Within these amounts, the superintendent of public instruction shall contract for the early return of 10th grade student assessment results, on or around June 10th of each year. State funding shall be limited to one collection of evidence payment per student, per content-area assessment.

(2) $356,000 of the general fund—state appropriation for fiscal year 2012 and $356,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Washington state leadership and assistance for science education reform (LASER) regional partnership activities coordinated at the Pacific science center, including instructional material purchases, teacher and principal professional development, and school and community engagement events.

(3) $980,000 of the general fund—state appropriation for fiscal year 2012 and $980,000 of the general fund—state appropriation for fiscal year 2013 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.

(4) $3,852,000 of the general fund—state appropriation for fiscal year 2012 and $2,624,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for continued implementation of chapter 235, Laws of 2010 (education reform) including development of new performance-based evaluation systems for certificated educators.

(5)(a) ((~~$40,681,000~~)) $39,296,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the following bonuses for teachers who hold valid, unexpired certification from the national board for professional teaching standards and who are teaching in a Washington public school, subject to the following conditions and limitations:

(i) For national board certified teachers, a bonus of $5,090 per teacher in the 2011-12 and 2012-13 school years, adjusted for inflation in each school year in which Initiative 732 cost of living adjustments are provided;

(ii) An additional $5,000 annual bonus shall be paid to national board certified teachers who teach in either: (A) High schools where at least 50 percent of student headcount enrollment is eligible for federal free or reduced price lunch, (B) middle schools where at least 60 percent of student headcount enrollment is eligible for federal free or reduced price lunch, or (C) elementary schools where at least 70 percent of student headcount enrollment is eligible for federal free or reduced price lunch;

(iii) The superintendent of public instruction shall adopt rules to ensure that national board certified teachers meet the qualifications for bonuses under (a)(ii)

of this subsection for less than one full school year receive bonuses in a pro-rated manner. Beginning in the 2011-12 school year, all bonuses in (a)(i) and (ii) of this subsection will be paid in July of each school year. Bonuses in (a)(i) and (ii) of this subsection shall be reduced by a factor of 40 percent for first year NBPTS certified teachers, to reflect the portion of the instructional school year they are certified; and

(iv) During the 2011-12 and 2012-13 school years, and within available funds, certificated instructional staff who have met the eligibility requirements and have applied for certification from the national board for professional teaching standards may receive a conditional loan of two thousand dollars or the amount set by the office of the superintendent of public instruction to contribute toward the current assessment fee, not including the initial up-front candidacy payment. The fee shall be an advance on the first annual bonus under RCW 28A.405.415. The conditional loan is provided in addition to compensation received under a district's salary schedule and shall not be included in calculations of a district's average salary and associated salary limitation under RCW 28A.400.200. Recipients who fail to receive certification after three years are required to repay the conditional loan. The office of the superintendent of public instruction shall adopt rules to define the terms for initial grant of the assessment fee and repayment, including applicable fees. To the extent necessary, the superintendent may use revenues from the repayment of conditional loan scholarships to ensure payment of all national board bonus payments required by this section in each school year.

(6) $477,000 of the general fund—state appropriation for fiscal year 2012 and $477,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the leadership internship program for superintendents, principals, and program administrators.

(7) $950,000 of the general fund—state appropriation for fiscal year 2012 and $950,000 of the general fund—state appropriation for fiscal year 2013 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.

(8) $810,000 of the general fund—state appropriation for fiscal year 2012 and $810,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the development of a leadership academy for school principals and administrators. The superintendent of public instruction shall contract with an independent organization to design, field test, and implement a state-of-the-art education leadership academy that will be accessible throughout the state. Initial development of the content of the academy activities shall be supported by private funds. Semiannually the independent organization shall report on amounts committed by foundations and others to support the development and implementation of this program. Leadership academy partners shall include the state level organizations for school administrators and principals, the superintendent of public instruction, the professional educator standards board, and others as the independent organization shall identify.

(9) $3,234,000 of the general fund—state appropriation for fiscal year 2012 and $3,234,000 of the general fund—state appropriation for fiscal year 2013 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.

(10) $1,500,000 of the general fund—state appropriation for fiscal year 2012 and $1,500,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the implementation of chapter 288, Laws of 2011 (actual student success program), including allocations to the opportunity internship program, the jobs for America's graduates program, the building bridges program, services provided by a college scholarship organization. Funding shall not be used in the 2011-2013 fiscal biennium to provide awards for schools and school districts.

(11) $859,000 of the general fund—state appropriation for fiscal year 2012, ((~~$846,000~~)) $808,000 of the general fund—state appropriation for fiscal year 2013, and $248,000 of the education legacy trust account—state appropriation are for administrative support of education reform programs.

(12) $2,000,000 of the general fund—state appropriation for fiscal year 2012 and $2,000,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for a statewide information technology (IT) academy program. This public-private partnership will provide educational software, as well as IT certification and software training opportunities for students and staff in public schools.

(13) $977,000 of the general fund—state appropriation for fiscal year 2012 and ((~~$977,000~~)) $1,077,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for secondary career and technical education grants pursuant to chapter 170, Laws of 2008. If equally matched by private donations, $300,000 of the 2012 appropriation and $300,000 of the 2013 appropriation shall be used to support FIRST robotics programs. Of the amounts in this subsection, $100,000 of the fiscal year 2013 appropriation is provided solely for the purpose of statewide supervision activities for career and technical education student leadership organizations.

(14) $125,000 of the general fund—state appropriation for fiscal year 2012 and $125,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for (a) staff at the office of the superintendent of public instruction to coordinate and promote efforts to develop integrated math, science, technology, and engineering programs in schools and districts across the state; and (b) grants of $2,500 to provide twenty middle and high school teachers each year with professional development training for implementing integrated math, science, technology, and engineering programs in their schools.

(15) $135,000 of the general fund—state appropriation for fiscal year 2012 and $135,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for science, technology, engineering and mathematics lighthouse projects, consistent with chapter 238, Laws of 2010.

(16) $1,000,000 of the general fund—state appropriation for fiscal year 2012 and $1,000,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for a beginning educator support program. School districts and/or regional consortia may apply for grant funding. The superintendent shall implement this program in 5 to 15 school districts and/or

regional consortia. The program provided by a district and/or regional consortia shall include: A paid orientation; assignment of a qualified mentor; development of a professional growth plan for each beginning teacher aligned with professional certification; release time for mentors and new teachers to work together; and teacher observation time with accomplished peers. $250,000 may be used to provide statewide professional development opportunities for mentors and beginning educators.

(17) $5,767,000 of the general fund—state appropriation for fiscal year 2013 is provided solely pursuant to Engrossed Substitute Senate Bill No. 5895 (certificated employee evaluations). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(18) $200,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the American Academy to provide social support and academic intervention to students who have been suspended or expelled, are pregnant or parenting teens, have dropped out of school, or are significantly at risk of dropping out of school. Students are eligible to participate with the recommendation and approval of their resident school district.

(19) $250,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for advanced project lead the way courses at ten high schools. To be eligible for funding, a high school must have offered a foundational project lead the way course during the 2011-12 school year. The funding must be used for one-time start-up course costs for an advanced project lead the way course, to be offered to students beginning in the 2012-13 school year. The office of the superintendent of public instruction and the education research and data center at the office of financial management shall track student participation and long-term outcome data.

(20) $150,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for aerospace and manufacturing technical programs housed at two skill centers. The one-time funding is provided for start-up equipment and curriculum purchases. To be eligible for funding, the skill center must agree to provide regional high schools with access to a technology laboratory, expand manufacturing certificate and course offerings at the skill center, and provide a laboratory space for local high school teachers to engage in professional development in the instruction of courses leading to student employment certification in the aerospace and manufacturing industries. The office of the superintendent of public instruction shall administer the grants in consultation with the center for excellence for aerospace and advanced materials manufacturing.

(21) $300,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for start-up grants to twelve high schools to implement the aerospace assembler program. Participating high schools must agree to offer the aerospace assembler training program to students by spring semester of school year 2012-13. The office of the superintendent of public instruction and the education research and data center at the office of financial management shall track student participation and long-term outcome data.

***Sec. 511 was partially vetoed. See message at end of chapter.**

Sec. 512. 2011 2nd sp.s. c 9 s 514 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$79,496,000~~)) $79,575,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$82,856,000~~)) $80,666,000

General Fund—Federal Appropriation $71,001,000

TOTAL APPROPRIATION . . . . . ((~~$233,353,000~~)) $231,242,000

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) For the 2011-12 and 2012-13 school years, the superintendent shall allocate funding to school districts for transitional bilingual programs as provided in RCW 28A.150.260(10)(b). In calculating the allocations, the superintendent shall assume the following averages: (i) Additional instruction of 4.7780 hours per week per transitional bilingual program student; (ii) fifteen transitional bilingual program students per teacher; (iii) 36 instructional weeks per year; (iv) 900 instructional hours per teacher; and (v) the district's average staff mix and compensation rates as provided in sections 503 and 504 of this act.

(b) From July 1, 2011, to August 31, 2011, the superintendent shall allocate funding to school districts for transitional bilingual instruction programs as provided in section 514, chapter 564, Laws of 2009, as amended through section 1411 of this act.

(c) The allocations in this section reflect the implementation of a new funding formula for the transitional bilingual instructional program, effective September 1, 2011, as specified in RCW 28A.150.260(10)(b).

(3) The superintendent may withhold allocations to school districts in subsection (2) of this section solely for the central provision of assessments as provided in RCW 28A.180.090 (1) and (2) up to the following amounts: 2.79 percent for school year 2011-12 and ((~~2.09~~)) 2.11 percent for school year 2012-13.

(4) The general fund—federal appropriation in this section is 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.

(5)(((~~(a) The office of the superintendent of public instruction shall implement~~)) In preparing its 2013-15 biennial budget request, the office of the superintendent of public instruction shall prepare for implementation of a funding model for the transitional bilingual program, beginning in school year ((~~2012-13~~)) 2013-14, that is scaled to provide more support to students requiring most intensive intervention, (students with beginning levels of English language proficiency) and less support to students requiring less intervention. The funding model shall also provide up to two years of bonus funding upon successful exit from the bilingual program to facilitate successful transition to a standard program of education.

(((~~(b) It is expected that per-pupil funding for level 2 proficiency will be set at the same level as would have been provided statewide prior to establishing differential per-pupil amounts; level 1 will be 125 percent of level 2; level 3 through the level prior to exit will be 75 percent of level 2; and two bonus years upon successful demonstration of proficiency will be 100 percent of level 2. Prior to implementing in school year 2012-13, the office of the superintendent of public instruction shall provide to the senate and house of representatives ways and means committees recommended rates based on the results of proficiency test procurement, expressed as both per-pupil rates and hours of instruction as provided in RCW 28A.150.260(10)(b).~~

~~(c) Each bilingual student shall be tested for proficiency level and, therefore, eligibility for the transitional bilingual program each year. The bonus payments for up to two school years following successful exit from the transitional bilingual program shall be allocated to the exiting school district. If the student graduates or transfers to another district prior to the district receiving both years' bonuses, the district shall receive the bonus for only the length of time the student remains enrolled in the exiting district.~~

~~(d) The quality education council shall examine the revised funding model developed under this subsection and provide a report to the education and fiscal committees of the legislature by December 1, 2011, that includes recommendations for:~~

~~(i) Changing the prototypical school funding formula for the transitional bilingual program to align with the revised model in an accurate and transparent manner;~~

~~(ii) Reconciling the revised model with statutory requirements for categorical funding of the transitional bilingual instructional program that is restricted to students eligible for and enrolled in that program;~~

~~(iii) Clarifying the elements of the transitional bilingual instructional program that fall under the definition of basic education and the impact of the revised model on them; and~~

~~(iv) The extent that the disparate financial impact of the revised model on different school districts should be addressed and options for addressing it.~~

~~(e) The office of the superintendent of public instruction shall report to the senate and house of representatives ways and means committees and education committees annually by December 31st of each year, through 2018, regarding any measurable changes in proficiency, time in program, and transition experience.~~

~~(6)~~)) [6] $35,000 of the general fund—state appropriation for fiscal year 2012 and $35,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to track current and former transitional bilingual program students.

Sec. 513. 2011 2nd sp.s. c 9 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 2012) . . . . . ((~~$102,470,000~~))
$102,619,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$103,666,000~~))
$128,779,000
General Fund—Federal Appropriation $492,207,000
Education Legacy Trust Account—State
Appropriation. . . . . ((~~$47,980,000~~))
$23,990,000
TOTAL APPROPRIATION . . . . . ((~~$746,323,000~~))
$747,595,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The general fund—state 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)(i) For the 2011-12 and 2012-13 school years, the superintendent shall allocate funding to school districts for learning assistance programs as provided in RCW 28A.150.260(10)(a). In calculating the allocations, the superintendent shall assume the following averages: (A) Additional instruction of 1.51560 hours per week per funded learning assistance program student; (B) fifteen learning assistance program students per teacher; (C) 36 instructional weeks per year; (D) 900 instructional hours per teacher; and (E) the district's average staff mix and compensation rates as provided in sections 503 and 504 of this act.

(ii) From July 1, 2011, to August 31, 2011, the superintendent shall allocate funding to school districts for learning assistance programs as provided in section 515, chapter 564, Laws of 2009, as amended through section 1412 of this act.

(c) A school district's funded students for the learning assistance program shall be the sum of 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.

(2) Allocations made pursuant to subsection (1) of this section shall be adjusted to reflect ineligible applications identified through the annual income verification process required by the national school lunch program, as recommended in the report of the state auditor on the learning assistance program dated February, 2010.

(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) 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.

(5) The office of the superintendent of public instruction shall research and recommend options for an adjustment factor for middle school and high school free and reduced price lunch eligibility reporting rates pursuant to RCW 28A.150.260(12)(a), and submit a report to the fiscal committees of the legislature by June 1, 2012. For the 2011-12 and 2012-13 school years, the adjustment factor is 1.0.

Sec. 514. 2011 1st sp.s. c 50 s 516 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

(1) Amounts distributed to districts by the superintendent through part V of this act are for allocations purposes only and do not entitle a particular district, district employee, or student to a specific service, beyond what has been expressly provided in statute. Part V of this act restates the requirements of various sections of Title 28A RCW. If any conflict exists, the provisions of Title 28A RCW control unless this act explicitly states that it is providing an enhancement. Any amounts provided in part V of this act in excess of the amounts required by Title 28A RCW provided in statute, are not within the program of basic education.

(2) To the maximum extent practicable, when adopting new or revised rules or policies relating to the administration of allocations in part V of this act that result in fiscal impact, the office of the superintendent of public instruction shall attempt to seek legislative approval through the budget request process.

(3) 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 (4) of this section.

(4) 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, 2012, 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 2012 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; highly capable; and learning assistance programs.

(5) 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.

PART VI
HIGHER EDUCATION

***Sec. 601.** 2011 2nd sp.s. c 9 s 601 (uncodified) is amended to read as follows:

FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

General Fund—State Appropriation (FY 2012) . . . . . ((~~$533,009,000~~))
$532,841,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$525,644,000~~))
$516,861,000

Community/Technical College Capital Projects
Account—State Appropriation . . . . . ((~~$8,037,000~~))
$12,793,000

Education Legacy Trust Account—State
Appropriation. . . . . ((~~$95,370,000~~))
$95,256,000
TOTAL APPROPRIATION . . . . . ((~~$1,162,060,000~~))
$1,157,751,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $28,761,000 of the general fund—state appropriation for fiscal year 2012 and $28,761,000 of the general fund—state appropriation for fiscal year 2013 are provided solely as special funds for training and related support services, including financial aid, as specified in RCW 28C.04.390. Funding is provided to support at least 6,200 full-time equivalent students in fiscal year 2012 and at least 6,200 full-time equivalent students in fiscal year 2013.

(2) $2,725,000 of the general fund—state appropriation for fiscal year 2012 and $2,725,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for administration and customized training contracts through the job skills program. The state board shall make an annual report by January 1st of each year to the governor and to the appropriate policy and fiscal committees of the legislature regarding implementation of this section, listing the scope of grant awards, the distribution of funds by educational sector and region of the state, and the results of the partnerships supported by these funds.

(3) $4,500,000 of the general fund—state appropriation for fiscal year 2012 and $4,500,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for worker retraining.

(4) Of the amounts appropriated in this section, $5,000,000 is provided solely for the student achievement initiative.

(5) When implementing the appropriations in this section, the state board and the trustees of the individual community and technical colleges shall minimize impact on academic programs, maximize reductions in administration, and shall at least maintain, and endeavor to increase, enrollment opportunities and degree and certificate production in high employer-demand fields of study at their academic year 2008-09 levels.

(6) Community and technical colleges are not required to send mass mailings of course catalogs to residents of their districts. Community and technical colleges shall consider lower cost alternatives, such as mailing postcards or brochures that direct individuals to online information and other ways of acquiring print catalogs.

(7) Bellevue college is authorized to offer ((~~applied~~)) baccalaureate degrees in information technology, health care services and management, biotechnology, and preprofessional preparation for medical fields. These degrees shall be directed at high school graduates and transfer-oriented degree and professional and technical degree holders. In fiscal year 2012, Bellevue college will develop a two-year plan for offering these new degrees. The plan will assume funding for these new degrees shall come through redistribution of its current per full-time enrollment funding. The plan shall be delivered to the legislature by June 30, 2012.

(8) The Seattle community college district is authorized to offer applied baccalaureate degree programs in business/international business and

technology management, interactive and artistic digital media, sustainability, building science technology, and allied and global health. These degrees shall be directed at high school graduates and professional and technical degree holders. In fiscal year 2012, Seattle community colleges shall develop a two-year plan for offering these new degrees. The plan will assume that funding for these new degrees comes through redistribution of its current per full-time enrollment funding. The plan shall be delivered to the legislature by June 30, 2012.

(9) $100,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the Jefferson education center.

(10) $2,000,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for an expansion in enrollments in science, technology, engineering, and math. Amounts provided in this subsection may be used only to cover direct costs of instruction associated with this enrollment expansion. By June 30, 2012, the state board for community and technical colleges shall provide a report to the legislature that provides specific detail on how these amounts will be spent. Each June 30th thereafter, the state board for community and technical colleges shall provide an updated report that provides specific detail on how these amounts were spent in the preceding twelve months.

(11) Amounts appropriated in this section are sufficient for the state board for community and technical colleges to conduct a comprehensive review of its tuition waiver policies. The resulting report shall include an overview of tuition waiver uses and costs (forgone revenue) and outcomes and any recommendations for changes to tuition waiver policy and shall be provided to the legislature no later than December 1, 2012.

(12) $131,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the implementation of Second Substitute House Bill No. 2156 (workforce training/aerospace). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(13) The state board for community and technical colleges shall not use funds appropriated in this section to support intercollegiate athletics programs.

(14) $200,000 of the general fund—state appropriation for fiscal year 2012 and $1,851,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for implementation of the customized training program under RCW 28B.67.020.

***Sec. 601 was partially vetoed. See message at end of chapter.**

Sec. 602. 2011 2nd sp.s. c 9 s 602 (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

General Fund—State Appropriation (FY 2012) . . . . . ((~~$201,388,000~~)) $201,226,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$206,358,000~~)) $201,612,000

Education Legacy Trust Account—State Appropriation $18,579,000

Economic Development Strategic Reserve Account—State Appropriation $1,500,000

Biotoxin Account—State Appropriation $450,000

Accident Account—State Appropriation . . . . . ((~~$6,699,000~~)) $6,681,000

Medical Aid Account—State Appropriation . . . . . ((~~$6,502,000~~))
$6,488,000
TOTAL APPROPRIATION . . . . . ((~~$439,976,000~~))
$436,536,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

(2) $150,000 of the general fund—state appropriation for fiscal year 2012 and $150,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the development of integrated medical curriculum for the Washington/Wyoming/Alaska/Montana/Idaho (WWAMI) medical education program in Spokane and eastern Washington. Funding is contingent on appropriations being provided to Washington State University for WWAMI program expansion in Spokane and eastern Washington.

(3) $52,000 of the general fund—state appropriation for fiscal year 2012 and $52,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the center for international trade in forest products in the college of forest resources.

(4) $88,000 of the general fund—state appropriation for fiscal year 2012 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 5485 (state's natural resources). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(5) $143,000 of the general fund—state appropriation for fiscal year 2012 and $144,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the ongoing management of the Washington park arboretum.

(6) $3,800,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for an expansion in engineering enrollments, including enrollments in the field of computer science. Amounts provided in this subsection may be used only to cover direct costs of instruction associated with this enrollment expansion. By June 30, 2012, the university shall provide a report to the legislature that provides specific detail on how these amounts will be spent. Each September 1st thereafter, the university shall provide an updated report that provides specific detail on how these amounts were spent in the preceding twelve months.

(7) Amounts appropriated in this section are sufficient for the university to conduct a comprehensive review of its tuition waiver policies. The resulting report shall include an overview of tuition waiver uses and costs (forgone revenue) and outcomes and any recommendations for changes to tuition waiver policy and shall be provided to the legislature no later than December 1, 2012.

(8) $610,000 of the general fund—state appropriation for fiscal year 2012 is provided solely to expand health sciences capacity at the University of Washington for Washington, Wyoming, Alaska, Montana, Idaho (WWAMI) and $190,000 of the general fund—state appropriation for fiscal year 2012 is provided solely to expand health sciences capacity at the University of Washington for Regional Initiatives in Dental Education (RIDE) for the

WWAMI-RIDE program expansion to achieve full ramp-up of first-year medical students and dental students each year of the four-year programs.

(9) The University of Washington shall not use funds appropriated in this section to support intercollegiate athletics programs.

(10) Amounts appropriated in this section are sufficient to cover the costs associated with the implementation of Engrossed Substitute Senate Bill No. 6486 (collective bargaining for post-doctoral researchers).

Sec. 603. 2011 2nd sp.s. c 9 s 603 (uncodified) is amended to read as follows:

FOR WASHINGTON STATE UNIVERSITY

General Fund—State Appropriation (FY 2012) . . . . . ((~~$134,512,000~~)) $134,454,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$136,087,000~~)) $133,692,000

Education Legacy Trust Account—State Appropriation $33,065,000

TOTAL APPROPRIATION . . . . . ((~~$303,664,000~~)) $301,211,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

(2) Within available funds, Washington State University shall serve an additional cohort of fifteen full-time equivalent students in the mechanical engineering program located at Olympic College.

(3) $300,000 of the general fund—state appropriation for fiscal year 2012 and $300,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the expansion of health sciences capacity through the Washington/Wyoming/Alaska/Montana/Idaho (WWAMI) medical education program in Spokane and eastern Washington. Funding is contingent on appropriations being provided to the University of Washington for integrated medical curriculum development for WWAMI.

(4) $3,800,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for an expansion in engineering enrollments, including enrollments in the field of computer science, including thirty additional full-time equivalent students in the mechanical engineering program located at Olympic College. Amounts provided in this subsection may be used only to cover direct costs of instruction associated with this enrollment expansion. By June 30, 2012, the university shall provide a report to the legislature that provides specific detail on how these amounts will be spent. Each June 30th thereafter, the university shall provide an updated report that provides specific detail on how these amounts were spent in the preceding twelve months.

(5) Amounts appropriated in this section are sufficient for the university to conduct a comprehensive review of its tuition waiver policies. The resulting report shall include an overview of tuition waiver uses and costs (forgone revenue) and outcomes and any recommendations for changes to tuition waiver policy and shall be provided to the legislature no later than December 1, 2012.

(6) Washington State University shall not use funds appropriated in this section to support intercollegiate athletics programs.

(7) Amounts appropriated in this section are sufficient to cover the costs associated with the implementation of Engrossed Substitute Senate Bill No. 6486 (collective bargaining for post-doctoral researchers).

(8) $25,000 of the general fund—state appropriation for fiscal year 2012 and $50,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Washington State University extension energy program to conduct a study of densified biomass as a renewable fuel used for heating homes, businesses, and other facilities. A report of the findings shall be submitted to the governor and the appropriate committees of the legislature by December 1, 2012.

Sec. 604. 2011 2nd sp.s. c 9 s 604 (uncodified) is amended to read as follows:

FOR EASTERN WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2012) . . . . . ((~~$26,257,000~~)) $26,239,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$26,541,000~~)) $25,759,000

Education Legacy Trust Account—State Appropriation $16,087,000

TOTAL APPROPRIATION . . . . . ((~~$68,885,000~~)) $68,085,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

(2) At least $200,000 of the general fund—state appropriation for fiscal year 2012 and at least $200,000 of the general fund—state appropriation for fiscal year 2013 shall be expended on the Northwest autism center.

(3) Amounts appropriated in this section are sufficient for the university to conduct a comprehensive review of its tuition waiver policies. The resulting report shall include an overview of tuition waiver uses and costs (forgone revenue) and outcomes and any recommendations for changes to tuition waiver policy and shall be provided to the legislature no later than December 1, 2012.

(4) $479,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for an expansion in enrollments in science, technology, engineering and math as defined in RCW 28B.76.270(2)(k). Amounts provided in this subsection may be used only to cover direct costs of instruction associated with this enrollment expansion. By June 30, 2012, the university shall provide a report to the legislature that provides specific detail on how these amounts will be spent. Each September 1 thereafter, the college shall provide an updated report that provides specific detail on how these amounts were spent in the preceding twelve months.

(5) Eastern Washington University shall not use funds appropriated in this section to support intercollegiate athletics programs.

Sec. 605. 2011 2nd sp.s. c 9 s 605 (uncodified) is amended to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2012) . . . . . ((~~$22,468,000~~)) $23,262,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$22,525,000~~)) $22,720,000

Education Legacy Trust Account—State Appropriation $19,076,000

TOTAL APPROPRIATION . . . . . ((~~$64,069,000~~)) $65,058,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

(2) Amounts appropriated in this section are sufficient for the university to conduct a comprehensive review of its tuition waiver policies. The resulting report shall include an overview of tuition waiver uses and costs (forgone revenue) and outcomes and any recommendations for changes to tuition waiver policy and shall be provided to the legislature no later than December 1, 2012.

(3) $406,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for an expansion in enrollments in science, technology, engineering and math as defined in RCW 28B.76.270(2)(k). Amounts provided in this subsection may be used only to cover direct costs of instruction associated with this enrollment expansion. By June 30, 2012, the university shall provide a report to the legislature that provides specific detail on how these amounts will be spent. Each September 1 thereafter, the college shall provide an updated report that provides specific detail on how these amounts were spent in the preceding twelve months.

(4) Central Washington University shall not use funds appropriated in this section to support intercollegiate athletics programs.

Sec. 606. 2011 2nd sp.s. c 9 s 606 (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$15,595,000~~)) $15,634,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$15,339,000~~)) $15,164,000

Education Legacy Trust Account—State Appropriation $5,450,000

Forest Fire Protection Assessment Account—State Appropriation. $100,000

TOTAL APPROPRIATION . . . . . ((~~$36,384,000~~)) $36,348,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

(2) $50,000 of the general fund—state appropriation for fiscal year 2012 and $25,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Washington state institute for public policy to conduct a detailed study of the commitment of sexually violent predators to the special commitment center pursuant to chapter 71.09 RCW and the subsequent release of those persons to less-restrictive alternatives.

(a) Specifically, the institute's study shall examine:

(i) The projected future demand for the special commitment center, including profiles and characteristics of persons referred and committed to the special commitment center since its inception, whether the profiles of those persons have changed over time, and, given current trends, the likelihood of the continuing rate of referral;

(ii) Residents' participation in treatment over time and the impact of treatment on eventual release to a less-restrictive alternative;

(iii) The annual review process and the process for a committed person to petition for conditional or unconditional release, specifically:

(A) The time frames for conducting mandatory reviews;

(B) The role of the special commitment center clinical team;

(C) Options and standards utilized by other jurisdictions or similar processes to conduct periodic reviews, including specialized courts, parole boards, independent review boards, and other commitment proceedings;

(iv) The capacity and future demand for appropriate less restrictive alternatives for moving residents out of the special commitment center, including:

(A) The capacity and demand for secure community transition facilities;

(B) Options for specialized populations such as the elderly or those with developmental disabilities and whether more cost-efficient options might be used to house those populations while keeping the public safe;

(C) Prospects for moving residents to noninstitutionalized settings beyond a secure community transition facility.

(b) The department of social and health services shall cooperate with the institute in conducting its examination and must provide the institute with requested data and records in a timely manner.

(c) The institute shall provide a status report to the governor and the legislature no later than November 1, 2011, with a final report due no later than November 1, 2012.

(3) $50,000 of the general fund—state appropriation for fiscal year 2012 and $50,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the institute for public policy to provide research support to the council on quality education.

(4) To the extent federal or private funding is available for this purpose, the Washington state institute for public policy and the center for reinventing public education at the University of Washington shall examine the relationship between participation in pension systems and teacher quality and mobility patterns in the state. The department of retirement systems shall facilitate

researchers' access to necessary individual-level data necessary to effectively conduct the study. The researchers shall ensure that no individually identifiable information will be disclosed at any time. An interim report on project findings shall be completed by November 15, 2010, and a final report shall be submitted to the governor and to the relevant committees of the legislature by October 15, 2011.

(5) Funding provided in this section is sufficient for The Evergreen State College to continue operations of the Longhouse Center and the Northwest Indian applied research institute.

(6) If, and to the extent that private funding is available for this purpose, the Washington state institute for public policy shall study and report on the child welfare and educational characteristics and outcomes for foster youth who are served by educational advocates. The department of social and health services and the office of the superintendent of public instruction shall facilitate researchers' access to data necessary to effectively complete the study. The institute shall submit an interim report with baseline characteristics of youth served by educational advocates by December 2011 and a final report by October 31, 2012, to the governor and to the appropriate committees of the legislature.

(7) $75,000 of the general fund—state appropriation for fiscal year 2012 is provided to the Washington state institute for public policy (WSIPP) to conduct a review of state investments in the family caregiver and support program. Funding for this program is provided by assumed savings from diverting seniors from entering into long-term care medicaid placements by supporting informal caregivers. WSIPP shall work with the department of social and health services to establish and review outcome data for this investment. A preliminary report on the outcomes of the investment into this program is due to the appropriate legislative committees by December 15, 2011, and a final report is due to the appropriate legislative committees by August 30, 2012.

(8) $50,000 of the general fund—state appropriation for fiscal year 2013 is provided solely to implement Second Substitute House Bill No. 2264 (child welfare/contracting). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(9) Amounts appropriated in this section are sufficient for the college to conduct a comprehensive review of its tuition waiver policies. The resulting report shall include an overview of tuition waiver uses and costs (forgone revenue) and outcomes and any recommendations for changes to tuition waiver policy and shall be provided to the legislature no later than December 1, 2012.

(10) $276,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for an expansion in enrollments in science, technology, engineering and math as defined in RCW 28B.76.270(2)(k). Amounts provided in this subsection may be used only to cover direct costs of instruction associated with this enrollment expansion. By June 30, 2012, the college shall provide a report to the legislature that provides specific detail on how these amounts will be spent. Each September 1 thereafter, the college shall provide an updated report that provides specific detail on how these amounts were spent in the preceding twelve months.

(11) $17,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to implement Substitute Senate Bill No. 6492 (competency

to stand trial). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(12) $40,000 of the general fund—state appropriation for fiscal year 2012 and $60,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Washington state institute for public policy to conduct a longitudinal study of the state need grant program. The purpose of this study is to determine to what extent this program has increased access and degree attainment for low-income students and to determine whether the funding for the state need grant has been utilized in the most efficient way possible to maximize the enrollment and degree attainment of low-income students. This study shall include, but not be limited to, a review of the following: (a) The demographics of recipients of the state need grant program, including, but not limited to, gender, race, and income; (b) the effect of the state need grant on enrollment rates of low-income students at the different institutions of higher education and whether these students attend full-time or part-time; (c) the effect of the state need grant on recipients' persistence, performance, degree or certificate completion, and time to degree or certificate completion at the different institutions of higher education; (d) an inventory of the types of degrees and certifications at the different institutions of higher education, by field of study, obtained by recipients; and (e) the interplay of the state need grant program with other forms of financial aid and the effect of this interplay on access and degree attainment of low-income students. A preliminary report of the findings shall be submitted to the governor and the appropriate committees of the legislature by December 1, 2012. A final report of the findings shall be submitted to the governor and the appropriate committees of the legislature by December 1, 2013. The preliminary report shall provide a comparison of Washington's state need grant program to similar programs in other states. The reports shall include recommendations for using more efficiently the funds provided to the state need grant program to increase access and degree attainment of low-income students. To the maximum extent possible, this report shall disaggregate the demographic and institution specific data in a manner that will inform policymakers of the enrollment patterns and success of specific subsets of recipients within the different institutions of higher education. The higher education coordinating board, or its successor agency, the education data center, and the institutions of higher education shall cooperate with the Washington state institute for public policy in the conduct of this study and shall provide to the institute the necessary data and information to complete this study.

(13) $15,000 of the general fund—state appropriation for fiscal year 2012 and $50,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Washington state institute for public policy to conduct an evaluation of the benefits provided in the pension plans offered by public employers in the state.

(a) Specifically, the study shall examine:

(i) The level of benefits offered by the state retirement plans and retirement plans sponsored by local government employers relative to the benefits provided in other states;

(ii) The adequacy of pension benefits provided to public employees, including barriers to retirement;

(iii) Barriers to the portability of retirement benefits between public employers in the state, including opportunities to improve benefit portability and compatibility; and

(iv) The treatment of overtime earnings in public employee retirement plans relative to the treatment of earnings in other states, including the impact of excess compensation on state retirement system contribution rates with a particular emphasis on agencies that operate on a 24-hour basis, such as the state patrol, ferry system, and state prisons.

(b) In conducting the study, the institute shall collaborate with the office of the state actuary and shall solicit input from local government plan sponsors.

(c) The institute shall report its findings to the select committee on pension policy and the committees on ways and means of the house of representatives and the senate by December 1, 2012.

(14) $5,000 of the general fund—state appropriation for fiscal year 2012 and $10,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Washington state institute for public policy to assess the potential costs and benefits of implementing the national academy of pediatricians' "bright futures" recommended schedule of well-child visits, developmental, and autism screenings in state medical assistance programs. The assessment shall be conducted in consultation with subject area experts, and shall include an estimate of the full cost of implementing the revised standards; identification and estimation of the fiscal and nonfiscal benefits; and computation of an estimated return on investment. The health care authority shall provide the institute with confidential access to claims and encounter data as necessary to complete this project. The institute shall report its finding to the relevant policy and fiscal committees of the legislature by December 31, 2012.

(15) The Evergreen State College shall not use funds appropriated in this section to support intercollegiate athletics programs.

(16) $46,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the implementation of section 10 of Engrossed Substitute House Bill No. 2363 (domestic violence). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(17) The Washington state institute for public policy shall conduct a review of the evaluation literature to determine the effectiveness of chemical dependency programs delivered in adult criminal justice and juvenile justice systems. The review shall identify characteristics of chemical dependency programs that are cost-effective at reducing crime and substance abuse. Specifically, the review will include an examination of the types of chemical dependency treatments, including residential and outpatient treatments; the efficacy of aftercare following formal treatment; and the impact of the duration of treatment on outcomes. The department of corrections and the department of social and health services shall provide information identified by the institute as necessary to complete this review. A report on the outcomes of the study is due to the appropriate legislative committees by December 15, 2012.

(18) $100,000 of the forest fire protection assessment account—state appropriation is provided solely for the Washington state institute of public policy to conduct a detailed analysis of potential mechanisms for reducing the amount of and variation in the state's fire suppression costs. The detailed analysis must include: (a) An examination of Oregon's excess forest fire

suppression cost insurance program and analysis of the potential application of this model in Washington, including the necessary steps for implementation and potential costs and benefits to the state; and (b) an examination of Washington's total and marginal costs related to staffing and overtime and whether these total or marginal costs are in excess of market rates. The Washington state institute of public policy must provide the detailed analysis to the appropriate committees of the senate and house of representatives by December 1, 2012.

Sec. 607. 2011 2nd sp.s. c 9 s 607 (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2012) . . . . . ((~~$33,754,000~~))
$33,728,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$33,743,000~~))
$32,783,000

Education Legacy Trust Account—State
Appropriation. . . . . ((~~$13,266,000~~))
$13,204,000

TOTAL APPROPRIATION . . . . . ((~~$80,763,000~~))
$79,715,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

(2) Amounts appropriated in this section are sufficient for the university to conduct a comprehensive review of its tuition waiver policies. The resulting report shall include an overview of tuition waiver uses and costs (forgone revenue) and outcomes and any recommendations for changes to tuition waiver policy and shall be provided to the legislature no later than December 1, 2012.

(3) $606,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for an expansion in enrollments in science, technology, engineering and math as defined in RCW 28B.76.270(2)(k). Amounts provided in this subsection may be used only to cover direct costs of instruction associated with this enrollment expansion. By June 30, 2012, the university shall provide a report to the legislature that provides specific detail on how these amounts will be spent. Each September 1 thereafter, the college shall provide an updated report that provides specific detail on how these amounts were spent in the preceding twelve months.

(4) Western Washington University shall not use funds appropriated in this section to support intercollegiate athletics programs.

NEW SECTION. **Sec. 608.** 2011 2nd sp.s. c 9 s 610 (uncodified) and 2011 1st sp.s. c 50 s 614 (uncodified) are repealed.

NEW SECTION. **Sec. 609.** 2011 2nd sp.s. c 9 s 611 (uncodified) and 2011 1st sp.s. c 50 s 615 (uncodified) are repealed.

Sec. 610. 2011 2nd sp.s. c 9 s 608 (uncodified) is amended to read as follows:

FOR THE HIGHER EDUCATION COORDINATING BOARD—POLICY COORDINATION AND ADMINISTRATION

General Fund—State Appropriation (FY 2012) . . . . . ((~~$1,036,000~~)) $1,041,000
General Fund—Federal Appropriation $1,976,000
TOTAL APPROPRIATION . . . . . ((~~$3,012,000~~)) $3,017,000

The appropriations in this section are subject to the following conditions and limitations: The higher education coordinating board is authorized to increase or establish fees for initial degree authorization, degree authorization renewal, degree authorization reapplication, new program applications, and new site applications pursuant to RCW 28B.85.060.

Sec. 611. 2011 2nd sp.s. c 9 s 609 (uncodified) is amended to read as follows:

FOR THE HIGHER EDUCATION COORDINATING BOARD—FINANCIAL AID AND GRANT PROGRAMS

General Fund—State Appropriation (FY 2012) $217,939,000
General Fund—Federal Appropriation $5,829,000
Opportunity Pathways Account—State Appropriation. $73,500,000
TOTAL APPROPRIATION $297,268,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $200,413,000 of the general fund—state appropriation for fiscal year 2012 and $73,500,000 of the opportunity pathways account—state appropriation are provided solely for student financial aid payments under the state need grant and the state work study program including up to a four percent administrative allowance for the state work study program.

(2) Within the funds appropriated in this section, eligibility for the state need grant shall include students with family incomes at or below 70 percent of the state median family income (MFI), adjusted for family size, and shall include students enrolled in three to five credit-bearing quarter credits, or the equivalent semester credits. The higher education coordinating board shall report to the legislature by December 1, 2013, regarding the number of students enrolled in three to five credit-bearing quarter credits, or the equivalent semester credits, and their academic progress including degree completion. Awards for all students shall be adjusted by the estimated amount by which Pell grant increases exceed projected increases in the noninstructional costs of attendance. Awards for students with incomes between 51 and 70 percent of the state median shall be prorated at the following percentages of the award amount granted to those with incomes below 51 percent of the MFI: 70 percent for students with family incomes between 51 and 55 percent MFI; 65 percent for students with family incomes between 56 and 60 percent MFI; 60 percent for students with family incomes between 61 and 65 percent MFI; and 50 percent for students with family incomes between 66 and 70 percent MFI.

(3) For fiscal year 2012, the board shall defer loan or conditional scholarship repayments to the future teachers conditional scholarship and loan repayment program for up to one year for each participant if the participant has

shown evidence of efforts to find a teaching job but has been unable to secure a teaching job per the requirements of the program.

(4) $500,000 of the general fund—state appropriation for fiscal year 2012 is provided solely for the leadership 1000 program.

(5) $2,436,000 of the general fund—state appropriation for fiscal year 2012 is provided solely for the passport to college program. The maximum scholarship award shall be $5,000. The board shall contract with a nonprofit organization to provide support services to increase student completion in their postsecondary program and shall, under this contract provide a minimum of $500,000 in fiscal year 2012. Any amounts provided in this subsection that remain unobligated at the close of fiscal year 2012 must be transferred to the state education trust account in RCW 28B.92.140 for purposes of the passport to college program.

(6) $250,000 of the general fund—state appropriation for fiscal year 2012 is provided solely for implementation of the aerospace training scholarship and student loan program as specified in Engrossed Substitute House Bill No. 1846 (aerospace student loans). If this bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

NEW SECTION. **Sec. 612.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

FOR THE STUDENT ACHIEVEMENT COUNCIL—POLICY COORDINATION AND ADMINISTRATION

General Fund—State Appropriation (FY 2013) $4,934,000
General Fund—Federal Appropriation $2,376,000
TOTAL APPROPRIATION $7,310,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The student achievement council is authorized to increase or establish fees for initial degree authorization, degree authorization renewal, degree authorization reapplication, new program applications, and new site applications pursuant to RCW 28B.85.060.

(2) $1,043,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the implementation of Engrossed Second Substitute House Bill No. 2483 (higher education coordination). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

NEW SECTION. **Sec. 613.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

FOR THE STUDENT ACHIEVEMENT COUNCIL—OFFICE OF STUDENT FINANCIAL ASSISTANCE

General Fund—State Appropriation (FY 2013) $247,034,000
General Fund—Federal Appropriation $5,812,000
Washington Opportunity Pathways Account—State Appropriation. $73,500,000
TOTAL APPROPRIATION $326,346,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $237,018,000 of the general fund—state appropriation for fiscal year 2013, and $73,500,000 of the opportunity pathways account—state appropriation are provided solely for student financial aid payments under the state need grant and the state work study programs including up to a four percent administrative allowance for the state work study program.

(2) Within the funds appropriated in this section, eligibility for the state need grant shall include students with family incomes at or below 70 percent of the state median family income (MFI), adjusted for family size, and shall include students enrolled in three to five credit-bearing quarter credits, or the equivalent semester credits. The higher education coordinating board shall report to the legislature by December 1, 2013, regarding the number of students enrolled in three to five credit-bearing quarter credits, or the equivalent semester credits, and their academic progress including degree completion. Awards for all students shall be adjusted by the estimated amount by which Pell grant increases exceed projected increases in the noninstructional costs of attendance. Awards for students with incomes between 51 and 70 percent of the state median shall be prorated at the following percentages of the award amount granted to those with incomes below 51 percent of the MFI: 70 percent for students with family incomes between 51 and 55 percent MFI; 65 percent for students with family incomes between 56 and 60 percent MFI; 60 percent for students with family incomes between 61 and 65 percent MFI; and 50 percent for students with family incomes between 66 and 70 percent MFI.

(3) $1,250,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for implementation of the aerospace training scholarship and student loan program as specified in Engrossed Substitute House Bill No. 1846 (aerospace student loans). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(4) For fiscal year 2013, the board shall defer loan or conditional scholarship repayments to the future teachers conditional scholarship and loan repayment program for up to one year for each participant if the participant has shown evidence of efforts to find a teaching job but has been unable to secure a teaching job per the requirements of the program.

(5) $1,000,000 of the education legacy trust account—state appropriation is provided solely for the gaining early awareness and readiness for undergraduate programs project.

(6) $1,500,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the leadership 1000 program.

(7) $2,436,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the passport to college program. The maximum scholarship award shall be $5,000. The board shall contract with a nonprofit organization to provide support services to increase student completion in their postsecondary program and shall, under this contract, provide a minimum of $500,000 in fiscal year 2013 for this purpose.

(8) In addition to the entities listed in RCW 28B.122.010, the aerospace student loan program may provide loans to students attending an aerospace training program at Renton technical college.

(9) The office of student financial assistance and the department of health shall prioritize a portion of any nonfederal balances in the health professional loan repayment and scholarship fund for conditional loan repayment contracts

with psychiatrists and with advanced registered nurse practitioners for work at one of the state-operated psychiatric hospitals. The office and department shall designate the state hospitals as health professional shortage areas if necessary for this purpose. The office of student financial assistance shall coordinate with the department of social and health services to effectively incorporate these conditional loan repayments into the department's advanced psychiatric professional recruitment and retention strategies.

(10) $50,000 of the amount provided in this section shall be used to convene the higher education loan program work group. The work group shall develop methods for funding the loan program in the future, as well as recommendations regarding the best loan program structure for providing financial aid to underserved populations. The work group shall seek out technical advice from the housing finance commission. At a minimum, the recommendations regarding the proposed loan program must take into account the following: Whether students could benefit from the creation of a new student loan program; the relationship between the student loan program and the state need grant program and the state need grant qualified student population; mechanisms to achieve interest rates that are below those offered in federally guaranteed and private bank student loans; sources of initial and on-going funding for loans and program operation; and default risks, reserve requirements, and other conditions required for the student loan program. The work group shall provide a report to the legislature no later than December 1, 2012.

Sec. 614. 2011 1st sp.s. c 50 s 616 (uncodified) is amended to read as follows:

FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD

General Fund—State Appropriation (FY 2012) . . . . . ((~~$1,382,000~~))
$1,310,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$1,388,000~~))
$1,345,000

General Fund—Federal Appropriation . . . . . ((~~$62,758,000~~))
$62,733,000

TOTAL APPROPRIATION . . . . . ((~~$65,528,000~~))
$65,388,000

The appropriations in this section are subject to the following conditions and limitations:

(1) For the 2011-2013 fiscal biennium the board shall not designate recipients of the Washington award for vocational excellence or recognize them at award ceremonies as provided in RCW 28C.04.535.

(2) $36,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the implementation of Second Substitute House Bill No. 2156 (workforce training/aerospace). If this bill is not enacted by June 30, 2012, the amount provided in the subsection shall lapse.

Sec. 615. 2011 2nd sp.s. c 9 s 612 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF EARLY LEARNING

General Fund—State Appropriation (FY 2012) . . . . . ((~~$27,571,000~~)) $25,497,000

General Fund—State Appropriation (FY 2013) . . . . . ((~~$27,558,000~~)) $27,190,000

General Fund—Federal Appropriation . . . . . ((~~$261,753,000~~)) $280,619,000

Opportunity Pathways Account—State Appropriation. . . . . ((~~$80,000,000~~)) $78,000,000

Home Visiting Services Account—Federal Appropriation $300,000

TOTAL APPROPRIATION . . . . . ((~~$396,882,000~~)) $411,606,000

The appropriations in this section are subject to the following conditions and limitations:

(1) $16,028,000 of the general fund—state appropriation for fiscal year 2012, ((~~$16,028,000~~)) $18,028,000 of the general fund—state appropriation of fiscal year 2013, ((~~$80,000,000~~)) $78,000,000 of the opportunity pathways account appropriation, and $2,256,000 of the general fund—federal appropriation are provided solely for the early childhood education assistance program services. Of these amounts, $10,284,000 is a portion of the biennial amount of state maintenance of effort dollars required to receive federal child care and development fund grant dollars.

(2) In accordance to RCW 43.215.255(2) and 43.135.055, the department is authorized to increase child care center and child care family home licensure fees in fiscal years 2012 and 2013 for costs to the department for the licensure activity, including costs of necessary inspection. These increases are necessary to support expenditures authorized in this section.

(3) ((~~$638,000~~)) $64,000 of the general fund—state appropriation for fiscal year 2012 ((~~and~~)), $638,000 of the general fund—state appropriation for fiscal year 2013, and $574,000 of the general fund—federal appropriation are provided solely for child care resource and referral network services.

(4) $200,000 of the general fund—state appropriation for fiscal year 2012 and $200,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to develop and provide culturally relevant supports for parents, family, and other caregivers.

(5) The department is the lead agency for and recipient of the federal child care and development fund grant. Amounts within this grant shall be used to fund child care licensing, quality initiatives, agency administration, and other costs associated with child care subsidies. The department shall transfer a portion of this grant to the department of social and health services to fund the child care subsidies paid by the department of social and health services on behalf of the department of early learning.

(6) The appropriations in this section reflect reductions in the appropriations for the department's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

(7) $934,000 of the general fund—state appropriation for fiscal year 2012, $934,000 of the general fund—state appropriation for fiscal year 2013, and $2,400,000 of the general fund—federal appropriation are provided solely for expenditure into the home visiting services account. This funding is intended to meet federal maintenance of effort requirements and to secure private matching funds.

(a) All federal funds received by the department for home visiting activities must be deposited into the home visiting services account.

(b) The department must consult with stakeholders during the development of the Washington home visiting plan and any future proposals for federal funding.

(c) No more than $300,000 of the home visiting services account—federal appropriation may be expended for program administration for fiscal year 2013 pursuant to RCW 43.215.130. No other funds may be expended for that purpose.

(8)(a) $153,558,000 of the general fund—federal appropriation is provided solely for the working connections child care program under RCW 43.215.135.

(b) In addition to groups that were given prioritized access to the working connections child care program effective March 1, 2011, the department shall also give prioritized access into the program to families in which a parent of a child in care is a minor who is not living with a parent or guardian and who is a full-time student in a high school that has a school-sponsored on-site child care center.

(9)(a) $50,000 of the general fund—state appropriation for fiscal year 2012 and $1,050,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for implementation and administration of an electronic benefit transfer system. The system shall include electronic time keeping, integrated with an eligibility information technology system, and an electronic payment system. The department shall coordinate implementation of this system with the department of social and health services.

(b) $100,000 of the general fund—state appropriation in this subsection is provided solely for the department to contract for an independent consultant to evaluate and recommend the optimum system for the eligibility determination process. The evaluation must include an analysis of lean management processes that, if adopted, could improve the cost effectiveness and delivery of eligibility determination. The department shall coordinate with the department of social and health services for this evaluation. The department must report to the office of financial management and the appropriate fiscal and policy committees of the legislature by December 1, 2012.

(10) Within available amounts, the department in consultation with the office of financial management and the department of social and health services shall report quarterly enrollments and active caseload for the working connections child care program to the legislative fiscal committees and the legislative-executive WorkFirst oversight task force. The report shall also identify the number of cases participating in both temporary assistance for needy families and working connections child care.

((~~(10)~~)) (11) $1,025,000 of the general fund—state appropriation for fiscal year 2013 and $6,712,000 of the general fund—federal appropriation are provided solely for the seasonal child care program in fiscal year 2013.

(12) $2,522,000 of the general fund—state appropriation for fiscal year 2012, $2,522,000 of the general fund—state appropriation for fiscal year 2013, and $4,304,000 of the general fund—federal appropriation are provided solely for the medicaid treatment child care (MTCC) program. The department shall contract for MTCC services to provide therapeutic child care and other specialized treatment services to abused, neglected, at-risk, and/or drug-affected children. Priority for services shall be given to children referred from the department of social and health services children's administration. In addition to referrals made by children's administration, the department shall authorize services for children referred to the MTCC program, as long as the children meet the eligibility requirements as outlined in the Washington state plan for the MTCC program. Of the amounts appropriated in this subsection, $60,000 per fiscal year may be used by the department for administering the MTCC program, if needed.

(13)(a) The department shall establish a birth-to-three subcommittee of the early learning advisory council. The subcommittee will be cochaired by the department and nongovernmental private-public partnership created in RCW 43.215.070. The subcommittee shall include at least one representative from each of the following:

(i) The early learning advisory council;

(ii) The office of the superintendent of public instruction;

(iii) The department of social and health services;

(iv) The department of early learning;

(v) The nongovernmental private-public partnership created in RCW 43.215.070;

(vi) The early learning action alliance; and

(vii) Additional stakeholders with expertise in birth-to-three policy and programs and quality child care, as designated by the early learning advisory council.

(b) The subcommittee may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(c) The subcommittee shall be monitored and overseen by the early learning advisory council created in RCW 43.215.090.

(d) The subcommittee shall develop a birth-to-three implementation proposal, which shall include further development of the Washington state birth-to-three plan.

(e) The subcommittee must include recommendations on the following in its birth-to-three proposal:

(i) Eligibility criteria for providers and programs;

(ii) The level of funding necessary to implement birth-to-three programs, including an option which makes available funding equivalent to thirty percent of the funding provided for the program of early learning established in RCW 43.215.141;

(iii) Options for funding sources for birth-to-three programs;

(iv) Governance responsibilities for the department of early learning; and

(v) A timeline for implementation that is concurrent with the expansion to the early learning program outlined in RCW 43.215.142.

The subcommittee must present its recommendations to the early learning advisory council and the appropriate committees of the legislature by December 1, 2012.

(14) $300,000 of the general fund—federal appropriation is provided solely for a contract with a nonprofit entity experienced in the provision of promoting early literacy for children through pediatric office visits.

Sec. 616. 2011 2nd sp.s. c 9 s 613 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE BLIND

General Fund—State Appropriation (FY 2012) . . . . . ((~~$5,782,000~~))
$5,776,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$5,749,000~~))
$5,671,000
((~~General Fund—Private/Local Appropriation. . . . . $1,961,000~~))
TOTAL APPROPRIATION . . . . . ((~~$13,492,000~~))
$11,447,000

((~~The appropriations in this section are subject to the following conditions and limitations: $271,000 of the general fund—private/local appropriation is provided solely for the school for the blind to offer short course programs, allowing students the opportunity to leave their home schools for short periods and receive intensive training. The school for the blind shall provide this service to the extent that it is funded by contracts with school districts and educational services districts.~~))

Sec. 617. 2011 2nd sp.s. c 9 s 614 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$8,449,000~~))
$8,439,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$8,446,000~~))
$8,335,000
((~~General Fund—Private/Local Appropriation. . . . . .$526,000~~))
TOTAL APPROPRIATION . . . . . ((~~$17,421,000~~))
$16,774,000

Sec. 618. 2011 2nd sp.s. c 9 s 615 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE ARTS COMMISSION

General Fund—Federal Appropriation $2,065,000
General Fund—Private/Local Appropriation $1,056,000
Washington State Heritage Center Account—State
Appropriation. . . . . ((~~$2,213,000~~))
$2,186,000
TOTAL APPROPRIATION . . . . . ((~~$5,334,000~~))
$5,307,000

Sec. 619. 2011 2nd sp.s. c 9 s 616 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE HISTORICAL SOCIETY
Washington State Heritage Center Account—State
Appropriation. . . . . ((~~$4,241,000~~))
$4,204,000

Sec. 620. 2011 2nd sp.s. c 9 s 617 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY
Washington State Heritage Center Account—State
Appropriation. . . . . ((~~$2,962,000~~))
$2,957,000

PART VII
SPECIAL APPROPRIATIONS

Sec. 701. 2011 2nd sp.s. c 9 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 2012) . . . . . ((~~$919,198,000~~))
$911,643,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$967,749,000~~))
$949,349,000
State Building Construction Account—State
Appropriation. $3,866,000
Columbia River Basin Water Supply Development
Account—State Appropriation $121,000
Hood Canal Aquatic Rehabilitation Bond Account—State
Appropriation. $4,000
State Taxable Building Construction Account—State
Appropriation. $90,000
Gardner-Evans Higher Education Construction
Account—State Appropriation $13,000
Debt-Limit Reimbursable Bond Retire Account—State
Appropriation. $2,300,000
TOTAL APPROPRIATION . . . . . ((~~$1,893,341,000~~))
$1,867,386,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriations are for expenditure into the debt-limit general fund bond retirement account. The entire general fund—state appropriation for fiscal year 2012 shall be expended into the debt-limit general fund bond retirement account by June 30, 2012.

Sec. 702. 2011 2nd sp.s. c 9 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 AS PRESCRIBED BY STATUTE

General Fund—State Appropriation (FY 2012) . . . . . ((~~$27,516,000~~))
$27,400,000
General Fund—State Appropriation (FY 2013) . . . . . ((~~$30,758,000~~))
$30,572,000
Nondebt-Limit Reimbursable Bond Retirement
Account—State Appropriation $140,128,000
TOTAL APPROPRIATION . . . . . ((~~$198,402,000~~))
$198,100,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for expenditure into the nondebt-limit general fund bond retirement account. The entire general fund—state appropriation for fiscal year 2012 shall be expended into the nondebt-limit general fund bond retirement account by June 30, 2012.

Sec. 703. 2011 1st sp.s. c 50 s 715 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—EXTRAORDINARY CRIMINAL JUSTICE COSTS

General Fund—State Appropriation (FY 2012) . . . . . ((~~$591,000~~))
$1,102,000

The appropriation in this section is subject to the following conditions and limitations: The director of financial management shall distribute ((~~$338,000~~)) $501,000 to Franklin county, $128,000 to Jefferson county, ((~~and~~)) $125,000 to Okanogan county, $161,000 to Yakima county, and $187,000 to King county for extraordinary criminal justice costs.

NEW SECTION. **Sec. 704.** 2011 2nd sp.s. c 9 s 705 (uncodified) is repealed.

NEW SECTION. **Sec. 705.** 2011 2nd sp.s. c 9 s 707 (uncodified) is repealed.

NEW SECTION. **Sec. 706.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES—DISTRIBUTION OF EXCESS FUNDS FROM THE FOREST DEVELOPMENT ACCOUNT

Forest Development Account—State Appropriation $10,000,000

The appropriation in this section is provided solely for distribution of state forest land revenues to taxing authorities that received such revenue from fiscal year 2002 through fiscal year 2011 and is subject to the following conditions and limitations:

(1) Within fifteen days of the effective date of this section, the department shall transmit funds in the amounts specified in subsection (3) of this section to the county treasurers of the counties receiving the funds.

(2) The county treasurers of the counties listed in this section shall distribute funds received from this appropriation to taxing authorities in proportion to the state forest transfer land funds distributed to the taxing authorities based on

information available for the fiscal years 2002 through 2011. Funds to be credited to the state of Washington and funds credited to school district general levies shall be remitted to the state of Washington within thirty days after the effective date of this section for deposit into the state general fund.

(3) Funds shall be distributed in the following amounts:

Clallam	$848,854
Clark	$630,368
Cowlitz	$418,159
Grays Harbor	$266,365
Jefferson	$239,722
King	$328,725
Kitsap	$73,839
Klickitat	$197,968
Lewis	$887,679
Mason	$425,935
Okanogan	$4
Pacific	$352,540
Pierce	$334,179
Skagit	$1,534,497
Skamania	$66,648
Snohomish	$1,565,549
Stevens	$6,709
Thurston	$783,735
Wahkiakum	$285,339
Whatcom	$753,186
Total	$10,000,000

NEW SECTION. **Sec. 707.** A new section is added to 2011 1st sp.s. c 50 (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 for fiscal year 2012, 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, for reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110, as follows:

(1) Clint L. Powell, Jr., claim number 99970048 . . . . . $58,155.10
(2) Chance L. Hawkins, claim number 99970049. . . . . $28,838.95
(3) Edgar L. Hawkins, claim number 99970050 . . . . . $25,507.00
(4) James Abbott, claim number 99970051. . . . . $9,880.00

(5) Richard Frisk, claim number 99970052. . . . . $32,788.50
(6) Brian Barnd-Spjut, claim number 99970053. . . . . $122,821.79

NEW SECTION. **Sec. 708.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—INCOME AND TAX BURDEN STUDY

General Fund—State Appropriation (FY 2013). $50,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The entire appropriation is provided solely for conducting the study required in this section.

(2) (a) The citizens of Washington state deserve better information on the disparate impacts of the economic and taxing decisions of state and local governments.

(b) The office of financial management will report to the appropriate fiscal committees in both legislative chambers on the income and tax burden of Washingtonians.

(c) The report must be delivered by September 1, 2012, and must include:

(i) Estimates of the income and the wealth distribution of Washingtonians by income quintile, or, if possible, by decile;

(ii) The combined state/local tax burden of Washingtonians by income quintile, or, if possible, decile;

(iii) The tax burden of Washingtonians using longitudinal data:

(A) As a percentage of aggregate income;

(B) Using per capita data; and

(C) Using tax burden per $1,000 of income;

(iv) The amount of state and local government revenue combined in Washington state as a share of the gross state product using longitudinal data; and

(v) Year-over-year estimates of real income gains (or losses) by income quintile, or, if possible, decile.

(d) Where feasible, the office of financial management must use established state and federal data sets to compile this report. The office of financial management must make estimates or projections based on historic data to fill in years if actual data is not yet available.

NEW SECTION. **Sec. 709.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

FOR THE SAVINGS INCENTIVE ACCOUNT AND EDUCATION SAVINGS ACCOUNT

For fiscal years 2012 and 2013, no appropriations are made for deposit to the savings incentive account or the education savings account under RCW 43.79.460 and 43.79.465.

The following acts or parts of acts are hereby repealed:

(1) 2011 1st sp.s. c 50 s 709 (uncodified); and

(2) 2011 1st sp.s. c 50 s 710 (uncodified).

NEW SECTION. **Sec. 710.** 2011 2nd sp.s. c 9 s 706 (uncodified) is repealed.

NEW SECTION. **Sec. 711.** 2011 2nd sp.s. c 9 s 708 (uncodified) is repealed.

NEW SECTION. **Sec. 712.** A new section is added to 2012 c 86 (ESHB 2190) (uncodified) to read as follows:

FOR THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

The legislature finds that it is critically important that highway improvement project lists, incorporated by reference in the biennial transportation appropriations act, accurately reflect the intent of the legislature with respect to the identified projects and activities as listed by fund, project, and amount in the list, including intended future commitments. The legislature further finds that during the 2012 regular legislative session, Engrossed Substitute House Bill No. 2190, as recommended by the conference committee, passed the legislature and that it incorporated by reference a highway improvement project list containing various technical drafting errors resulting in an inaccurate reflection of the conference committee report as agreed to by the conferees. The legislature further finds that a corrected version of the list is necessary to conform with the recommendations of the conference committee in a manner that does not change the funding decisions or appropriations for the current 2011-2013 biennium as agreed to by the conferees. Therefore, any reference in chapter 86 (ESHB 2190), Laws of 2012 to "LEAP Transportation Document 2012-2 as developed March 8, 2012, Program – Highway Improvement Program (I)" is superseded by the corrected version "LEAP Transportation Document 2012-2C as developed March 14, 2012, Program – Highway Improvements Program (I)".

NEW SECTION. **Sec. 713.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—LIFE SCIENCES DISCOVERY FUND

General Fund—State Appropriation (FY 2013) $4,000,000

The appropriation in this section is subject to the following conditions and limitations: The general fund appropriation is for expenditure into the life sciences discovery fund.

***NEW SECTION.** Sec. 714. A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:*

FOR THE OFFICE OF FINANCIAL MANAGEMENT—INFORMATION TECHNOLOGY

From appropriations to state agencies for the 2011-2013 fiscal biennium, the office of financial management shall reduce general fund—state allotments by $5,000,000 for fiscal year 2013 to reflect savings associated with a reduction in expenditures related to information technology, pursuant to allotment schedules prepared by the office of financial management. The allotment reductions under this section shall be placed in unallotted status and remain unexpended. For agencies with appropriations from accounts other than the general fund—state, the office of financial management shall work with agencies to achieve similar savings in other accounts.

***Sec. 714 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 715.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—LEGAL SERVICES REVOLVING ACCOUNT

General Fund—State Appropriation (FY 2012) $324,000
General Fund—State Appropriation (FY 2013) $648,000
Other Appropriated Funds $1,779,000
TOTAL APPROPRIATION $2,751,000

The appropriations in this section are subject to the following conditions and limitations: In accordance with schedules prepared by the office of financial management, the appropriations in this section shall be distributed to state agencies by the office of financial management to support the level of appropriations in this act from the legal services revolving account for legal services provided to state agencies by the office of the attorney general.

PART VIII
OTHER TRANSFERS AND APPROPRIATIONS

Sec. 801. 2011 1st sp.s. c 50 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 . . . . . ((~~$8,368,000~~)) $8,289,000
General Fund Appropriation for public utility district excise tax distributions . . . . . ((~~$49,418,000~~)) $44,078,000
General Fund Appropriation for prosecuting attorney distributions $6,281,000
General Fund Appropriation for boating safety and education distributions $4,000,000
General Fund Appropriation for other tax distributions $58,000
General Fund Appropriation for habitat conservation program distributions $3,000,000
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies $2,960,000
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution $160,000
Timber Tax Distribution Account Appropriation for distribution to "timber" counties . . . . . ((~~$40,421,000~~)) $58,229,000
County Criminal Justice Assistance Appropriation . . . . . ((~~$69,801,000~~)) $69,566,000
Municipal Criminal Justice Assistance Appropriation. . . . . ((~~$26,950,000~~)) $26,843,000

City-County Assistance Account Appropriation for local government financial assistance distribution. . . . . ((~~$16,589,000~~)) $12,159,000

Liquor Excise Tax Account Appropriation for liquor excise tax distribution . . . . . ((~~$52,152,000~~)) $25,617,000

Streamlined Sales and Use Tax Mitigation Account Appropriation for distribution to local taxing jurisdictions to mitigate the unintended revenue redistribution effect of the sourcing law changes. . . . . ((~~$49,635,000~~)) $49,309,000

Columbia River Water Delivery Account Appropriation for the Confederated Tribes of the Colville Reservation . . . . . ((~~$7,441,000~~)) $7,478,000

Columbia River Water Delivery Account Appropriation for the Spokane Tribe of Indians. . . . . ((~~$4,748,000~~)) $4,794,000

Liquor Revolving Account Appropriation for liquor profits distribution . . . . . ((~~$69,318,000~~)) $85,132,000

TOTAL APPROPRIATION . . . . . ((~~$411,301,000~~)) $407,953,000

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. 802. 2011 1st sp.s. c 50 s 802 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—FOR THE COUNTY CRIMINAL JUSTICE ASSISTANCE ACCOUNT

Impaired Driver Safety Account Appropriation . . . . . ((~~$2,501,000~~)) $2,439,000

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 2011-2013 fiscal 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. 2011 1st sp.s. c 50 s 803 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—MUNICIPAL CRIMINAL JUSTICE ASSISTANCE ACCOUNT

Impaired Driver Safety Account Appropriation . . . . . ((~~$1,666,000~~)) $1,626,000

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 2011-2013 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. 2011 2nd sp.s. c 9 s 801 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—TRANSFERS

State Treasurer's Service Account: For transfer to the state general fund, $16,300,000 for fiscal year 2012 and ((~~$21,300,000~~)) $24,800,000 for fiscal year 2013 . . . . . ((~~$37,600,000~~)) $41,100,000

Waste Reduction, Recycling, and Litter Control Account: For transfer to the state general fund, ((~~$3,500,000~~)) $4,847,000 for fiscal year 2012 and ((~~$3,500,000~~)) $4,847,000 for fiscal year 2013 . . . . . ((~~$7,000,000~~)) $9,694,000

Aquatics Lands Enhancement Account: For transfer to the state general fund, $3,500,000 for fiscal year 2012 and $3,500,000 for fiscal year 2013 . . . . . $7,000,000

Savings Incentive Account: For transfer to the state general fund, $44,618,000 for fiscal year 2012 . . . . . $44,618,000

Distinguished Professorship Trust Fund: For transfer to the state general fund for fiscal year 2012, an amount not to exceed the actual cash balance of the fund $3,024,000

Washington Graduate Fellowship Trust Fund: For transfer to the state general fund for fiscal year 2012, an amount not to exceed the actual cash balance of the fund $1,028,000

College Faculty Awards Trust Fund: For transfer to the state general fund for fiscal year 2012, an amount not to exceed the actual cash balance of the fund $1,996,000

Data Processing Revolving Account: For transfer to the state general fund, $5,960,000 for fiscal year 2012 . . . . . $5,960,000

Drinking Water Assistance Account: For transfer to the drinking water assistance repayment account $38,000,000

Economic Development Strategic Reserve Account: For transfer to the state general fund, $2,100,000 for fiscal year 2012 and $2,100,000 for fiscal year 2013 . . . . . $4,200,000

General Fund: For transfer to the streamlined sales and use tax account, ((~~$24,846,000~~)) $24,520,000 for fiscal year 2012 and $24,789,000 for fiscal year 2013 . . . . . ((~~$49,635,000~~)) $49,309,000

Public Works Assistance Account: For transfer to the water pollution control revolving account, $7,750,000 for fiscal year 2012 and $7,750,000 for fiscal year 2013 . . . . . $15,500,000

The Charitable, Educational, Penal, and Reformatory Institutions Account: For transfer to the state general fund, $4,500,000 for fiscal year 2012 and $4,500,000 for fiscal year 2013 . . . . . $9,000,000

Thurston County Capital Facilities Account: For transfer to the state general fund, $4,000,000 for fiscal year 2012 and $4,000,000 for fiscal year 2013 . . . . . $8,000,000

Public Works Assistance Account: For transfer to the drinking water assistance account, $10,000,000 for fiscal year 2012 and $5,000,000 for fiscal year 2013 . . . . . $15,000,000

Liquor Control Board Construction and Maintenance Account: For transfer to the state general fund, $500,000 for fiscal year 2012 ((~~and $500,000 for fiscal year 2013~~)) . . . . . ((~~$1,000,000~~)) $500,000

Education Savings Account: For transfer to the state general fund, $54,431,000 for fiscal year 2012 ((~~and $22,500,000 for fiscal year 2013~~)) . . . . . ((~~$76,931,000~~)) $54,431,000

Department of Retirement Systems Expense Account: For transfer to the state general fund, ((~~$250,000~~)) $2,330,000 for fiscal year 2012 and ((~~$250,000~~)) $4,330,000 for fiscal year 2013 . . . . . ((~~$500,000~~)) $6,660,000

Education Construction Account: For transfer to the state general fund, $102,000,000 for fiscal year 2012 and $102,000,000 for fiscal year 2013 . . . . . $204,000,000

Public Works Assistance Account: For transfer to the state general fund, ((~~$25,000,000~~)) $40,000,000 for fiscal year 2012 and ((~~$25,000,000~~)) $40,000,000 for fiscal year 2013 . . . . . ((~~$50,000,000~~)) $80,000,000

Foster Care Endowed Scholarship Trust Fund: For transfer to the state general fund, $200,000 for fiscal year 2012 and $200,000 for fiscal year 2013 . . . . . $400,000

Affordable Housing For All Account: For transfer to the home security fund, $1,000,000 for fiscal year 2012 and $1,000,000 for fiscal year 2013 . . . . . $2,000,000

Tobacco Settlement Account: For transfer to the state general fund, in an amount not to exceed the actual amount of the annual base payment to the tobacco settlement account $158,205,000

Tobacco Settlement Account: For transfer to the basic health plan stabilization account from the amounts deposited in the account that are attributable to the annual strategic contribution payment received in fiscal year 2012 . . . . . $22,000,000

Tobacco Settlement Account: For transfer to the basic health plan stabilization account from the amounts deposited in the account that are attributable to the annual strategic contribution payment received in fiscal year 2013 . . . . . $22,000,000

Tobacco Settlement Account: For transfer to the life sciences discovery fund, in an amount not to exceed the actual remaining amount of the annual strategic contribution payment to the tobacco settlement account for fiscal year 2012 . . . . . $6,000,000

Tobacco Settlement Account: For transfer to the life sciences discovery fund, in an amount not to exceed the actual remaining amount of the annual strategic contribution payment to the tobacco settlement account for fiscal year 2013 . . . . . $6,000,000

The transfer to the life sciences discovery fund is subject to the following conditions: All new grants awarded during the 2011-2013 fiscal biennium shall support and accelerate the commercialization of an identifiable product.

Financial Services Regulation Fund: For transfer to the state general fund, $4,000,000 for fiscal year 2012 . . . . . $4,000,000

State Nursery Revolving Account: For transfer to the state general fund, $250,000 for fiscal year 2012 and $250,000 for fiscal year 2013 . . . . . $500,000

Washington State Heritage Center Account: For transfer to the state general fund, $2,000,000 for fiscal year 2013 . . . . . $2,000,000
Local Toxics Control Account: For transfer to the state toxics control account, $15,000,000 for fiscal year 2012 and $16,000,000 for fiscal year 2013 . . . . . $31,000,000
Coastal Protection Account: For transfer to the state general fund, $500,000 for fiscal year 2012 and $500,000 for fiscal year 2013 . . . . . $1,000,000
Multimodal Transportation Account—State: For transfer to the Public Transportation Grant Program Account for the purposes of distributions of $3,000,000 on each of the last working days of December, March, and June in fiscal year 2013. . . . . $9,000,000
Aquatic Lands Enhancement Account: For transfer to the marine resources stewardship trust account, $2,100,000 for fiscal year 2013 . . . . . $2,100,000

PART IX
MISCELLANEOUS

Sec. 901. 2011 1st sp.s. c 50 s 910 (uncodified) is amended to read as follows:

COLLECTIVE BARGAINING AGREEMENT FOR FISCAL YEAR 2012—TERMS AND CONDITIONS

For fiscal year 2012, no agreements have been reached between the governor and the following unions: Washington public employees association, Washington public employees association higher education community college coalition, Washington federation of state employees higher education community college coalition, Washington federation of state employees Central Washington University, Washington federation of state employees Western Washington University, Washington federation of state employees The Evergreen State College, and public school employees Western Washington University, under the provisions of chapter 41.80 RCW ((~~for the 2011-2013 biennium~~)) for fiscal year 2012. Appropriations in this act provide funding to continue the terms and conditions of the 2009-2011 general government and higher education agreements negotiated by the office of financial management's labor relations office under the provisions of chapter 41.80 RCW for fiscal year 2012. For fiscal year 2012, appropriations have been reduced in an amount equal to a 3 percent salary reduction for all represented employees whose monthly full-time equivalent salary is $2,500 or more per month. This reduction will be implemented according to the terms and conditions of the 2009-2011 agreements. ((~~For fiscal year 2013, funding is reduced to reflect a 3.0 percent temporary salary reduction for all employees whose monthly full-time equivalent salary is $2,500 or more per month through June 29, 2013. Effective June 30, 2013, the salary schedules effective July 1, 2009, through June 30, 2011, will be reinstated. For employees entitled to leave, temporary salary reduction leave is granted for fiscal year 2013. These changes will be implemented according to law.~~))

NEW SECTION. **Sec. 902.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

COLLECTIVE BARGAINING AGREEMENT—FISCAL YEAR 2013—WPEA, WPEA CC COALITION, WFSE CC COALITION, WFSE CWU, WFSE TESC

Agreements have been reached between the governor and the following unions: Washington public employees association, Washington public employees association higher education community college coalition, Washington federation of state employees higher education community college coalition, Washington federation of state employees Central Washington University, and Washington federation of state employees The Evergreen State College, under the provisions of chapter 41.80 RCW for fiscal year 2013. Funding is reduced to reflect a 3.0 percent temporary salary reduction for all employees whose monthly full-time equivalent salary is $2,500 or more per month through June 29, 2013. Effective June 30, 2013, the salary schedules effective July 1, 2009, through June 30, 2011, will be reinstated. For employees entitled to leave, temporary salary reduction leave is granted for fiscal year 2013.

NEW SECTION. **Sec. 903.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

COLLECTIVE BARGAINING AGREEMENT—FISCAL YEAR 2013—YAKIMA VALLEY COMMUNITY COLLEGE—WASHINGTON PUBLIC EMPLOYEES ASSOCIATION

An agreement has been reached between Yakima Valley Community College and Washington public employees association under the provisions of chapter 41.80 RCW for fiscal year 2013. The agreement is consistent with the funding reduction provided in the 2011-2013 omnibus appropriations act, which reflected a 3.0 percent temporary salary reduction to all employees whose monthly full-time equivalent salary is $2,500 or more per month through June 29, 2013.

NEW SECTION. **Sec. 904.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

COLLECTIVE BARGAINING AGREEMENT—FISCAL YEAR 2013—WESTERN WASHINGTON UNIVERSITY—PUBLIC SCHOOL EMPLOYEES OF WASHINGTON

An agreement has been reached between Western Washington University and the Washington public school employees of Washington bargaining units D and PTE under the provisions of chapter 41.80 RCW for fiscal year 2013. The agreement is consistent with the funding reduction provided in the 2011-2013 omnibus appropriations act, which reflected a 3.0 percent temporary salary reduction to all employees whose monthly full-time equivalent salary is $2,500 or more per month through June 29, 2013. The reduction will be implemented according to the terms and conditions of this agreement.

NEW SECTION. **Sec. 905.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

COLLECTIVE BARGAINING AGREEMENT—FISCAL YEAR 2013—WESTERN WASHINGTON UNIVERSITY—WFSE

An agreement has been reached between Western Washington University and the Washington federation of state employees bargaining units A, B, and E under the provisions of chapter 41.80 RCW for fiscal year 2013. The agreement is consistent with the funding reduction provided in the 2011-2013 omnibus appropriations act, which reflected a 3.0 percent temporary salary reduction to all employees whose monthly full-time equivalent salary is $2,500 or more per month through June 29, 2013. The reduction will be implemented according to the terms and conditions of this agreement.

NEW SECTION. **Sec. 906.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

COLLECTIVE BARGAINING AGREEMENT—FISCAL YEAR 2013—EASTERN WASHINGTON UNIVERSITY—WFSE

An agreement has been reached between Eastern Washington University and the Washington federation of state employees under the provisions of chapter 41.80 RCW for fiscal year 2013. The agreement is consistent with the funding reduction provided in the 2011-2013 omnibus appropriations act, which reflected a 3.0 percent temporary salary reduction to all employees whose monthly full-time equivalent salary is $2,500 or more per month through June 29, 2013. The reduction will be implemented according to the terms and conditions of this agreement.

NEW SECTION. **Sec. 907.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

COLLECTIVE BARGAINING AGREEMENT FOR NONSTATE EMPLOYEES—SEIU HEALTHCARE 775NW HOMECARE WORKERS

If the governor and the service employees international union healthcare 775nw under chapter 74.39A RCW reach agreement on the state's contribution to the training partnership pursuant to the appropriations in sections 205 and 206 of this act, the new contribution amount shall become a part of the parties' existing 2011-2013 collective bargaining agreement.

NEW SECTION. **Sec. 908.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

COLLECTIVE BARGAINING AGREEMENT FOR NONSTATE EMPLOYEES—WSRCC ADULT FAMILY HOMES

If the governor and the Washington state residential care council under chapter 41.56 RCW reach agreement on a modification of the daily rate for the impacts of training and license fees pursuant to the appropriations in sections 205 and 206 of this act, the new rate shall become a part of the parties' existing 2011-2013 collective bargaining agreement.

Sec. 909. 2011 1st sp.s. c 50 s 920 (uncodified) is amended to read as follows:

COMPENSATION—NONREPRESENTED EMPLOYEES—INSURANCE BENEFITS

Appropriations for state agencies in this act are sufficient for nonrepresented state employee health benefits for state agencies, including institutions of higher education, and 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 $850 per eligible employee for fiscal year 2012. For fiscal year 2013 the monthly employer funding rate shall not exceed ((~~$850~~)) $800 per eligible 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. For calendar years 2012 and 2013, the subsidy shall be $150.00 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, $66.01 per month beginning September 1, 2011, and ((~~$67.91~~)) $65.17 beginning September 1, 2012;

(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, $66.01 each month beginning September 1, 2011, and ((~~$67.91~~)) $65.17 beginning September 1, 2012, 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.

Sec. 910. 2011 1st sp.s. c 50 s 921 (uncodified) is amended to read as follows:

COMPENSATION—REPRESENTED EMPLOYEES OUTSIDE SUPER COALITION—INSURANCE BENEFITS

Appropriations for state agencies in this act are sufficient for represented employees outside the super coalition for health benefits, and 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 $850 per eligible employee for fiscal year 2012. For fiscal year 2013 the monthly employer funding rate shall not exceed ((~~$850~~)) $800 per eligible 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. For calendar years 2012 and 2013, the subsidy shall be $150.00 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, $66.01 per month beginning September 1, 2011, and ((~~$67.91~~)) $65.17 beginning September 1, 2012;

(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, $66.01 each month beginning September 1, 2011, and ((~~$67.91~~)) $65.17 beginning September 1, 2012, 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.

Sec. 911. 2011 1st sp.s. c 50 s 922 (uncodified) is amended to read as follows:

COMPENSATION—REPRESENTED EMPLOYEES—SUPER COALITION—INSURANCE BENEFITS

The collective bargaining agreement negotiated with the super coalition under chapter 41.80 RCW includes employer premiums at 85 percent of the total weighted average of the projected health care premiums across all plans and tiers. Appropriations in this act for state agencies, including institutions of higher education are sufficient to fund state employees health benefits for employees represented by the super coalition on health benefits, and 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 $850 per eligible employee for fiscal year 2012. For fiscal year 2013 the monthly employer funding rate shall not exceed ((~~$850~~)) $800 per eligible 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. For calendar years 2012 and 2013, the subsidy shall be $150.00 per month.

NEW SECTION. **Sec. 912.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

For purposes of RCW 43.88.110(7), any cash deficit in existence at the close of fiscal year 2012 shall be liquidated over the remainder of the 2011-2013 fiscal biennium.

Sec. 913. RCW 2.68.020 and 2009 c 564 s 1802 and 2009 c 564 s 918 are each reenacted and amended to read as follows:

There is created an account in the custody of the state treasurer to be known as the judicial information system account. The administrative office of the courts shall maintain and administer the account, in which shall be deposited all moneys received from in-state noncourt users and any out-of-state users of the judicial information system and moneys as specified in RCW 2.68.040 for the purposes of providing judicial information system access to noncourt users and providing an adequate level of automated services to the judiciary. The legislature shall appropriate the funds in the account for the purposes of the judicial information system. The account shall be used for the acquisition of equipment, software, supplies, services, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies, and equipment, including the payment of principal and interest on items paid in installments. ((~~During the 2007-2009 fiscal biennium, the legislature may transfer from the judicial information system account to the state general fund such amounts as reflect the excess fund balance of the account. During the 2009-2011 fiscal biennium, the legislature may transfer from the judicial information system account to the state general fund such amounts as reflect the excess fund balance of the account.~~)) During the 2011-2013 fiscal biennium, the judicial information systems account may be appropriated to support the state law library.

Sec. 914. RCW 28B.15.067 and 2011 1st sp.s. c 10 s 3 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

(2) Beginning in the 2011-12 academic year, reductions or increases in full-time tuition fees shall be as provided in the omnibus appropriations act for resident undergraduate students at community and technical colleges. The governing boards of the state universities, regional universities, and The Evergreen State College; and the state board for community and technical

colleges may reduce or increase full-time tuition fees for all students other than resident undergraduates, including nonresident students, summer school students, and students in other self-supporting degree programs. Percentage increases in full-time tuition may exceed the fiscal growth factor. Except during the 2011-2013 fiscal biennium, the state board for community and technical colleges may pilot or institute differential tuition models. The board may define scale, scope, and rationale for the models.

(3)(a) Beginning with the 2011-12 academic year and through the end of the 2014-15 academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College may reduce or increase full-time tuition fees for all students, including summer school students and students in other self-supporting degree programs. Percentage increases in full-time tuition fees may exceed the fiscal growth factor. Reductions or increases may be made for all or portions of an institution's programs, campuses, courses, or students; however, during the 2011-2013 fiscal biennium, reductions or increases in tuition must be uniform among resident undergraduate students.

(b) Prior to reducing or increasing tuition for each academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College shall consult with existing student associations or organizations with student undergraduate and graduate representatives regarding the impacts of potential tuition increases. Governing boards shall be required to provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

(c) Prior to reducing or increasing tuition for each academic year, the state board for community and technical college system shall consult with existing student associations or organizations with undergraduate student representation regarding the impacts of potential tuition increases. The state board for community and technical colleges shall provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

(4) Beginning with the 2015-16 academic year through the 2018-19 academic year, the governing boards of the state universities, regional universities, and The Evergreen State College may set tuition for resident undergraduates as follows:

(a) If state funding for a college or university falls below the state funding provided in the operating budget for fiscal year 2011, the governing board may increase tuition up to the limits set in (d) of this subsection, reduce enrollments, or both;

(b) If state funding for a college or university is at least at the level of state funding provided in the operating budget for fiscal year 2011, the governing board may increase tuition up to the limits set in (d) of this subsection and shall continue to at least maintain the actual enrollment levels for fiscal year 2011 or increase enrollments as required in the omnibus appropriations act; ((~~and~~))

(c) If state funding is increased so that combined with resident undergraduate tuition the sixtieth percentile of the total per-student funding at similar public institutions of higher education in the global challenge states under RCW 28B.15.068 is exceeded, the governing board shall decrease tuition by the amount needed for the total per-student funding to be at the sixtieth percentile under RCW 28B.15.068; and

(d) The amount of tuition set by the governing board for an institution under this subsection (4) may not exceed the sixtieth percentile of the resident undergraduate tuition of similar public institutions of higher education in the global challenge states.

(5) The tuition fees established under this chapter shall not apply to high school students enrolling in participating institutions of higher education under RCW 28A.600.300 through 28A.600.400.

(6) The tuition fees established under this chapter shall not apply to eligible students enrolling in a dropout reengagement program through an interlocal agreement between a school district and a community or technical college under RCW 28A.175.100 through 28A.175.110.

(7) The tuition fees established under this chapter shall not apply to eligible students enrolling in a community or technical college participating in the pilot program under RCW 28B.50.534 for the purpose of obtaining a high school diploma.

(8) Beginning in the 2019-20 academic year, reductions or increases in full-time tuition fees for resident undergraduates at four-year institutions of higher education shall be as provided in the omnibus appropriations act.

(9) The legislative advisory committee to the committee on advanced tuition payment established in RCW 28B.95.170 shall:

(a) Review the impact of differential tuition rates on the funded status and future unit price of the Washington advanced college tuition payment program; and

(b) No later than January 14, 2013, make a recommendation to the appropriate policy and fiscal committees of the legislature regarding how differential tuition should be addressed in order to maintain the ongoing solvency of the Washington advanced college tuition payment program.

Sec. 915. RCW 38.52.540 and 2010 1st sp.s. c 19 s 18 are each amended to read as follows:

(1) The enhanced 911 account is created in the state treasury. All receipts from the state enhanced 911 excise taxes imposed by RCW 82.14B.030 must be deposited into the account. Moneys in the account must be used only to support the statewide coordination and management of the enhanced 911 system, for the implementation of wireless enhanced 911 statewide, for the modernization of enhanced 911 emergency communications systems statewide, and to help supplement, within available funds, the operational costs of the system, including adequate funding of counties to enable implementation of wireless enhanced 911 service and reimbursement of radio communications service companies for costs incurred in providing wireless enhanced 911 service pursuant to negotiated contracts between the counties or their agents and the radio communications service companies. For the 2011-2013 fiscal biennium, the account may be used for modernizing narrowband radio capability in the department of corrections. A county must show just cause, including but not limited to a true and accurate accounting of the funds expended, for any inability to provide reimbursement to radio communications service companies of costs incurred in providing enhanced 911 service.

(2) Funds generated by the enhanced 911 excise tax imposed by RCW 82.14B.030(5) may not be distributed to any county that has not imposed the maximum county enhanced 911 excise tax allowed under RCW 82.14B.030(1).

Funds generated by the enhanced 911 excise tax imposed by RCW 82.14B.030(6) may not be distributed to any county that has not imposed the maximum county enhanced 911 excise tax allowed under RCW 82.14B.030(2).

(3) The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, is authorized to enter into statewide agreements to improve the efficiency of enhanced 911 services for all counties and shall specify by rule the additional purposes for which moneys, if available, may be expended from this account.

Sec. 916. RCW 41.06.560 and 2011 1st sp.s. c 39 s 11 are each amended to read as follows:

From February 15, 2010, until June 30, 2013, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This section does not prohibit the payment of awards provided for in chapter 41.60 RCW. For institutions of higher education, this section does not prohibit the payment of specific cash awards from private donations from individuals or businesses including, but not limited to, endowments.

From July 1, 2011, until June 30, 2013, no performance-based awards or incentives may be granted by the director or employers to employees pursuant to a performance management confirmation granted by the department of personnel under WAC 357-37-055.

Sec. 917. RCW 43.07.129 and 2011 1st sp.s. c 50 s 940 are each amended to read as follows:

The Washington state heritage center account is created in the custody of the state treasurer. All moneys received under RCW 36.18.010(11) and 43.07.128 must be deposited in the account. Expenditures from the account may be made only for the following purposes:

(1) Payment of the certificate of participation issued for the Washington state heritage center;

(2) Capital maintenance of the Washington state heritage center; and

(3) Program operations that serve the public, relate to the collections and exhibits housed in the Washington state heritage center, or fulfill the missions of the state archives, state library, and capital museum.

Only the secretary of state or the secretary of state's designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW. During the 2011-2013 fiscal biennium, the legislature may appropriate from the Washington state heritage center account for the purposes of state arts, historical, and library programs. Additionally, during the 2011-2013 fiscal biennium, the legislature may transfer from the Washington state heritage center account to the state general fund such amounts as reflect the excess fund balance of the fund.

Sec. 918. RCW 43.30.720 and 2003 1st sp.s. c 25 s 938 are each amended to read as follows:

All receipts from the sale of stock or seed shall be deposited in a state forest nursery revolving fund to be maintained by the department, which is hereby authorized to use all money in said fund for the maintenance of the state tree nursery or the planting of denuded state owned lands.

During the ((~~2003-2005~~)) 2011-2013 fiscal biennium, the legislature may transfer from the state forest nursery revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund.

***Sec. 919. RCW 43.88.110 and 2009 c 518 s 3 are each amended to read as follows:**

***This section sets forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch for public funds.**

***(1) Allotments of an appropriation for any fiscal period shall conform to the terms, limits, or conditions of the appropriation.**

***(2) The director of financial management shall provide all agencies with a complete set of operating and capital instructions for preparing a statement of proposed expenditures at least thirty days before the beginning of a fiscal period. The set of instructions need not include specific appropriation amounts for the agency.**

***(3) Within forty-five days after the beginning of the fiscal period or within forty-five days after the governor signs the omnibus biennial appropriations act, whichever is later, all agencies shall submit to the governor a statement of proposed expenditures at such times and in such form as may be required by the governor.**

***(4) The office of financial management shall develop a method for monitoring capital appropriations and expenditures that will capture at least the following elements:**

***(a) Appropriations made for capital projects including transportation projects;**

***(b) Estimates of total project costs including past, current, ensuing, and future biennial costs;**

***(c) Comparisons of actual costs to estimated costs;**

***(d) Comparisons of estimated construction start and completion dates with actual dates;**

***(e) Documentation of fund shifts between projects.**

***This data may be incorporated into the existing accounting system or into a separate project management system, as deemed appropriate by the office of financial management.**

***(5) The office of financial management, prior to approving allotments for major capital construction projects valued over five million dollars, shall institute procedures for reviewing such projects at the predesign stage that will reduce long-term costs and increase facility efficiency. The procedures shall include, but not be limited to, the following elements:**

***(a) Evaluation of facility program requirements and consistency with long-range plans;**

***(b) Utilization of a system of cost, quality, and performance standards to compare major capital construction projects; and**

***(c) A requirement to incorporate value-engineering analysis and constructability review into the project schedule.**

***(6) No expenditure may be incurred or obligation entered into for such major capital construction projects including, without exception, land acquisition, site development, predesign, design, construction, and equipment acquisition and installation, until the allotment of the funds to be expended has been approved by the office of financial management. This limitation**

does not prohibit the continuation of expenditures and obligations into the succeeding biennium for projects for which allotments have been approved in the immediate prior biennium.

(7)(a) Beginning January 1, 2013, if at any time during the fiscal period the governor projects a cash deficit in a particular fund or account as defined by RCW 43.88.050, the governor shall make across-the-board reductions in allotments for that particular fund or account so as to prevent a cash deficit, unless the legislature has directed the liquidation of the cash deficit over one or more fiscal periods.

(b)(i) From the effective date of this section until January 1, 2013, if at any time during the fiscal period the governor projects a cash deficit in a particular fund or account as defined by RCW 43.88.050, then as set forth in (b) of this subsection the governor shall make across-the-board reductions in the total amount allotted to each agency from each appropriation from that fund or account so as to prevent a cash deficit, unless the legislature has directed the liquidation of the cash deficit over one or more fiscal periods.

(ii) The percentage reduction applied to individual allotments of an agency's total allotments from each appropriation from that fund or account may vary, but each agency's total allotments from each appropriation from that fund or account must be uniformly reduced by the percentage necessary to prevent a cash deficit. Where a portion of an appropriation is provided solely for a particular purpose, allotments of that portion of the appropriation may be reduced only by the same percentage as the overall appropriation.

(iii) Allotments for the following programs may be reduced only by a percentage equal to one-half of the percentage reduction applied to total allotments of appropriations under (b)(ii) of this subsection:

(A) Direct custody in the department of corrections and the juvenile rehabilitation administration; and

(B) The special commitment center of the department of social and health services.

(iv) Basic education programs, debt service on state bonds, state contributions to retirement systems, and programs for which a defined benefit is specifically mandated in statute are exempt from across-the-board allotment reductions under this subsection (7)(b) and allotments for these purposes shall not be included when calculating the allotment reductions.

(8) Except for the legislative and judicial branches and other agencies headed by elective officials, the governor shall review the statement of proposed operating expenditures for reasonableness and conformance with legislative intent. The governor may request corrections of proposed allotments submitted by the legislative and judicial branches and agencies headed by elective officials if those proposed allotments contain significant technical errors.

(9) Once the governor approves the proposed allotments, further revisions may at the request of the office of financial management or upon the agency's initiative be made on a quarterly basis and must be accompanied by an explanation of the reasons for significant changes. If the governor initiates across-the-board allotment revisions under subsection (7)(b) of this section, the office of financial management shall provide notice to the appropriate legislative fiscal committees of the proposed revisions, including the

explanation for the significant changes, and the revisions may not take effect until ten days after this notice is provided. ***However, changes in appropriation level authorized by the legislature, changes required by across-the-board reductions mandated by the governor, changes caused by executive increases to spending authority, and changes caused by executive decreases to spending authority for failure to comply with the provisions of chapter 36.70A RCW may require additional revisions. Revisions shall not be made retroactively. However, the governor may assign to a reserve status any portion of an agency appropriation withheld as part of across-the-board reductions made by the governor and any portion of an agency appropriation conditioned on a contingent event by the appropriations act. The governor may remove these amounts from reserve status if the across-the-board reductions are subsequently modified or if the contingent event occurs. The director of financial management shall enter approved statements of proposed expenditures into the state budgeting, accounting, and reporting system within forty-five days after receipt of the proposed statements from the agencies. If an agency or the director of financial management is unable to meet these requirements, the director of financial management shall provide a timely explanation in writing to the legislative fiscal committees.***

((~~(8)~~)) (10) It is expressly provided that all agencies shall be required to maintain accounting records and to report thereon in the manner prescribed in this chapter and under the regulations issued pursuant to this chapter. Within ninety days of the end of the fiscal year, all agencies shall submit to the director of financial management their final adjustments to close their books for the fiscal year. Prior to submitting fiscal data, written or oral, to committees of the legislature, it is the responsibility of the agency submitting the data to reconcile it with the budget and accounting data reported by the agency to the director of financial management.

((~~(9)~~)) (11) The director of financial management may exempt certain public funds from the allotment controls established under this chapter if it is not practical or necessary to allot the funds. Allotment control exemptions expire at the end of the fiscal biennium for which they are granted. The director of financial management shall report any exemptions granted under this subsection to the legislative fiscal committees.

***Sec. 919 was vetoed. See message at end of chapter.**

Sec. 920. RCW 70.105D.070 and 2011 1st sp.s. c 50 s 964 are each reenacted and amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship;

(xii) Development and demonstration of alternative management technologies designed to carry out the hazardous waste management priorities of RCW 70.105.150;

(xiii) During the 2009-2011 and 2011-2013 fiscal biennia, shoreline update technical assistance;

(xiv) During the 2009-2011 fiscal biennium, multijurisdictional permitting teams; ((~~and~~))

(xv) During the 2011-2013 fiscal biennium, actions for reducing public exposure to toxic air pollution; and

(xvi) During the 2011-2013 fiscal biennium, the department of ecology's water quality, shorelands and environmental assessment, hazardous waste, waste to resources, nuclear waste, and air quality programs.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority:

(i) Remedial actions;

(ii) Hazardous waste plans and programs under chapter 70.105 RCW;

(iii) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(iv) Funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and

(v) Cleanup and disposal of hazardous substances from abandoned or derelict vessels, defined for the purposes of this section as vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel, that pose a threat to human health or the environment.

(b) Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that is a Puget Sound partner, as defined in RCW 90.71.010, along with any project that is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, shall, except as conditioned by RCW 70.105D.120, receive priority for any available funding for any grant or funding programs or sources that use a competitive bidding process. During the 2007-2009 fiscal biennium, moneys in the account may also be used for grants to local governments to retrofit public sector diesel equipment and for storm water planning and implementation activities.

(c) To expedite cleanups throughout the state, the department shall partner with local communities and liable parties for cleanups. The department is authorized to use the following additional strategies in order to ensure a healthful environment for future generations:

(i) The director may alter grant-matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(A) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(B) Funding would create new substantial economic development, public recreational, or habitat restoration opportunities that would not otherwise occur; or

(C) Funding would create an opportunity for acquisition and redevelopment of vacant, orphaned, or abandoned property under RCW 70.105D.040(5) that would not otherwise occur;

(ii) The use of outside contracts to conduct necessary studies;

(iii) The purchase of remedial action cost-cap insurance, when necessary to expedite multiparty clean-up efforts.

(d) To facilitate and expedite cleanups using funds from the local toxics control account, during the 2009-2011 fiscal biennium the director may establish grant-funded accounts to hold and disperse local toxics control account funds and funds from local governments to be used for remedial actions.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) Except during the ((~~2009-2011~~)) 2011-2013 fiscal biennium, one percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation, or, after January 1, 2010, for projects designed to address the restoration of Puget Sound, funded in a competitive grant process, that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(7) The department shall adopt rules for grant or loan issuance and performance.

(8) During the ((~~2007-2009 and 2009-2011~~)) 2011-2013 fiscal ((~~biennia~~)) biennium, the legislature may transfer from the local toxics control account to ((~~either~~)) the state ((~~general fund or the oil spill prevention account, or both~~)) toxics control account such amounts as reflect excess fund balance in the account.

(((~~(9) During the 2009-2011 fiscal biennium, the local toxics control account may also be used for a standby rescue tug at Neah Bay, local government shoreline update grants, private and public sector diesel equipment retrofit, and oil spill prevention, preparedness, and response activities.~~

~~(10) During the 2009-2011 fiscal biennium, the legislature may transfer from the state toxics control account to the state general fund such amounts as reflect the excess fund balance in the account.~~

~~(11)~~)) (9) During the 2011-2013 fiscal biennium, the local toxics control account may also be used for local government shoreline update grants and actions for reducing public exposure to toxic air pollution.

Sec. 921. RCW 74.48.090 and 2011 1st sp.s. c 7 s 21 are each amended to read as follows:

(1) The department and the department of health, in consultation with the Washington state health care association, and aging services of Washington, shall design a system of skilled nursing facility quality incentive payments. The design of the system shall be submitted to the relevant policy and fiscal committees of the legislature by ((~~December 15, 2011~~)) January 1, 2013. For the 2011-2013 fiscal biennial budget period, the department shall not implement a system of skilled nursing facility quality incentive payments designed pursuant to this section. The system shall be based upon the following principles:

(a) Evidence-based treatment and processes shall be used to improve health care outcomes for skilled nursing facility residents;

(b) Effective purchasing strategies to improve the quality of health care services should involve the use of common quality improvement measures,

while recognizing that some measures may not be appropriate for application to facilities with high bariatric, behaviorally challenged, or rehabilitation populations;

(c) Quality measures chosen for the system should be consistent with the standards that have been developed by national quality improvement organizations, such as the national quality forum, the federal centers for medicare and medicaid services, or the federal agency for healthcare research and quality. New reporting burdens to skilled nursing facilities should be minimized by giving priority to measures skilled nursing facilities that are currently required to report to governmental agencies, such as the nursing home compare measures collected by the federal centers for medicare and medicaid services;

(d) Benchmarks for each quality improvement measure should be set at levels that are feasible for skilled nursing facilities to achieve, yet represent real improvements in quality and performance for a majority of skilled nursing facilities in Washington state; and

(e) Skilled nursing facilities performance and incentive payments should be designed in a manner such that all facilities in Washington are able to receive the incentive payments if performance is at or above the benchmark score set in the system established under this section.

(2) Pursuant to an appropriation by the legislature, for state fiscal year ((~~2013~~)) 2014 and each fiscal year thereafter, assessments may be increased to support an additional one percent increase in skilled nursing facility reimbursement rates for facilities that meet the quality incentive benchmarks established under this section.

Sec. 922. RCW 76.04.610 and 2007 c 110 s 1 are each amended to read as follows:

(1)(a) If any owner of forest land within a forest protection zone neglects or fails to provide adequate fire protection as required by RCW 76.04.600, the department shall provide such protection and shall annually impose the following assessments on each parcel of such land: (i) A flat fee assessment of seventeen dollars and fifty cents; and (ii) twenty-seven cents on each acre exceeding fifty acres.

(b) Assessors may, at their option, collect the assessment on tax exempt lands. If the assessor elects not to collect the assessment, the department may bill the landowner directly.

(2) An owner who has paid assessments on two or more parcels, each containing fewer than fifty acres and each within the same county, may obtain the following refund:

(a) If all the parcels together contain less than fifty acres, then the refund is equal to the flat fee assessments paid, reduced by the total of (i) seventeen dollars and (ii) the total of the amounts retained by the county from such assessments under subsection (5) of this section.

(b) If all the parcels together contain fifty or more acres, then the refund is equal to the flat fee assessments paid, reduced by the total of (i) seventeen dollars, (ii) twenty-seven cents for each acre exceeding fifty acres, and (iii) the total of the amounts retained by the county from such assessments under subsection (5) of this section.

Applications for refunds shall be submitted to the department on a form prescribed by the department and in the same year in which the assessments were paid. The department may not provide refunds to applicants who do not provide verification that all assessments and property taxes on the property have been paid. Applications may be made by mail.

In addition to the procedures under this subsection, property owners with multiple parcels in a single county who qualify for a refund under this section may apply to the department on an application listing all the parcels owned in order to have the assessment computed on all parcels but billed to a single parcel. Property owners with the following number of parcels may apply to the department in the year indicated:

Year	Number of Parcels
2002	10 or more parcels
2003	8 or more parcels
2004 and thereafter	6 or more parcels

The department must compute the correct assessment and allocate one parcel in the county to use to collect the assessment. The county must then bill the forest fire protection assessment on that one allocated identified parcel. The landowner is responsible for notifying the department of any changes in parcel ownership.

(3) Beginning January 1, 1991, under the administration and at the discretion of the department up to two hundred thousand dollars per year of this assessment shall be used in support of those rural fire districts assisting the department in fire protection services on forest lands.

(4) For the purpose of this chapter, the department may divide the forest lands of the state, or any part thereof, into districts, for fire protection and assessment purposes, may classify lands according to the character of timber prevailing, and the fire hazard existing, and place unprotected lands under the administration of the proper district. Amounts paid or contracted to be paid by the department for protection of forest lands from funds at its disposal shall be a lien upon the property protected, unless reimbursed by the owner within ten days after October 1st of the year in which they were incurred. The department shall be prepared to make statement thereof, upon request, to a forest owner whose own protection has not been previously approved as to its adequacy, the department shall report the same to the assessor of the county in which the property is situated. The assessor shall extend the amounts upon the tax rolls covering the property, and upon authorization from the department shall levy the forest protection assessment against the amounts of unimproved land as shown in each ownership on the county assessor's records. The assessor may then segregate on the records to provide that the improved land and improvements thereon carry the millage levy designed to support the rural fire protection districts as provided for in RCW 52.16.170.

(5) The amounts assessed shall be collected at the time, in the same manner, by the same procedure, and with the same penalties attached that general state and county taxes on the same property are collected, except that errors in assessments may be corrected at any time by the department certifying them to the treasurer of the county in which the land involved is situated. Assessments

shall be known and designated as assessments of the year in which the amounts became reimbursable. Upon the collection of assessments the county treasurer shall place fifty cents of the total assessments paid on a parcel for fire protection into the county current expense fund to defray the costs of listing, billing, and collecting these assessments. The treasurer shall then transmit the balance to the department. Collections shall be applied against expenses incurred in carrying out the provisions of this section, including necessary and reasonable administrative costs incurred by the department in the enforcement of these provisions. The department may also expend sums collected from owners of forest lands or received from any other source for necessary administrative costs in connection with the enforcement of RCW 76.04.660.

(6) When land against which forest protection assessments are outstanding is acquired for delinquent taxes and sold at public auction, the state shall have a prior lien on the proceeds of sale over and above the amount necessary to satisfy the county's delinquent tax judgment. The county treasurer, in case the proceeds of sale exceed the amount of the delinquent tax judgment, shall immediately remit to the department the amount of the outstanding forest protection assessments.

(7) All nonfederal public bodies owning or administering forest land included in a forest protection zone shall pay the forest protection assessments provided in this section and the special forest fire suppression account assessments under RCW 76.04.630. The forest protection assessments and special forest fire suppression account assessments shall be payable by nonfederal public bodies from available funds within thirty days following receipt of the written notice from the department which is given after October 1st of the year in which the protection was provided. Unpaid assessments are not a lien against the nonfederal publicly owned land but shall constitute a debt by the nonfederal public body to the department and are subject to interest charges at the legal rate. During the 2011-2013 fiscal biennium, the forest fire protection assessment account may be appropriated to The Evergreen State College for analysis and recommendations to improve the efficiency and effectiveness of the state's mechanisms for funding fire prevention and suppression activities.

(8) A public body, having failed to previously pay the forest protection assessments required of it by this section, which fails to suppress a fire on or originating from forest lands owned or administered by it, is liable for the costs of suppression incurred by the department or its agent and is not entitled to reimbursement of costs incurred by the public body in the suppression activities.

(9) The department may adopt rules to implement this section, including, but not limited to, rules on levying and collecting forest protection assessments.

Sec. 923. RCW 77.12.201 and 2009 c 479 s 63 are each amended to read as follows:

The legislative authority of a county may elect, by giving written notice to the director and the treasurer prior to January 1st of any year, to obtain for the following year an amount in lieu of real property taxes on game lands as provided in RCW 77.12.203. Upon the election, the county shall keep a record of all fines, forfeitures, reimbursements, and costs assessed and collected, in whole or in part, under this title for violations of law or rules adopted pursuant to this title, with the exception of the 2011-2013 fiscal biennium, and shall monthly

remit an amount equal to the amount collected to the state treasurer for deposit in the state general fund. The election shall continue until the department is notified differently prior to January 1st of any year.

Sec. 924. RCW 77.12.203 and 2005 c 303 s 14 are each amended to read as follows:

(1) Except as provided in subsection (5) of this section and notwithstanding RCW 84.36.010 or other statutes to the contrary, the director shall pay by April 30th of each year on game lands in each county, if requested by an election under RCW 77.12.201, an amount in lieu of real property taxes equal to that amount paid on similar parcels of open space land taxable under chapter 84.34 RCW or the greater of seventy cents per acre per year or the amount paid in 1984 plus an additional amount for control of noxious weeds equal to that which would be paid if such lands were privately owned. This amount shall not be assessed or paid on department buildings, structures, facilities, game farms, fish hatcheries, tidelands, or public fishing areas of less than one hundred acres.

(2) "Game lands," as used in this section and RCW 77.12.201, means those tracts one hundred acres or larger owned in fee by the department and used for wildlife habitat and public recreational purposes. All lands purchased for wildlife habitat, public access or recreation purposes with federal funds in the Snake River drainage basin shall be considered game lands regardless of acreage.

(3) This section shall not apply to lands transferred after April 23, 1990, to the department from other state agencies.

(4) The county shall distribute the amount received under this section in lieu of real property taxes to all property taxing districts except the state in appropriate tax code areas the same way it would distribute local property taxes from private property. The county shall distribute the amount received under this section for weed control to the appropriate weed district.

(5) For the 2011-2013 fiscal biennium, the director shall pay by April 30th of each year on game lands in each county, if requested by an election under RCW 77.12.201, an amount in lieu of real property taxes and shall be distributed as follows:

County	
Adams	1,909
Asotin	36,123
Chelan	24,757
Columbia	7,795
Ferry	6,781
Garfield	4,840
Grant	37,443
Grays Harbor	7,264
Kittitas	143,974
Klickitat	21,906
Lincoln	13,535

Okanogan	151,402
Pend Oreille	3,309
Yakima	126,225

These amounts shall not be assessed or paid on department buildings, structures, facilities, game farms, fish hatcheries, tidelands, or public fishing areas of less than one hundred acres.

***Sec. 925. RCW 79.22.010 and 2003 c 334 s 205 are each amended to read as follows:**

***(1) The department has the power to accept gifts and bequests of money or other property, made in its own name, or made in the name of the state, to promote generally the interests of reforestation or for a specific named purpose in connection with reforestation, and to acquire in the name of the state, by purchase or gift, any lands which by reason of their location, topography, or geological formation, are chiefly valuable for purpose of developing and growing timber, and to designate such lands and any lands of the same character belonging to the state as state forest lands; and may acquire by gift or purchase any lands of the same character.**

***(2) The department has the power to seed, plant, and develop forests on any lands, purchased, acquired, or designated by it as state forest lands, and shall furnish such care and fire protection for such lands as it shall deem advisable.**

***(3) Upon approval of the board of county commissioners of the county in which the land is located such gift or donation of land may be accepted subject to delinquent general taxes thereon, and upon such acceptance of such gift or donation subject to such taxes, the department shall record the deed of conveyance thereof and file with the assessor and treasurer of the county wherein such land is situated, written notice of acquisition of such land, and that all delinquent general taxes thereon, except state taxes, shall be canceled, and the county treasurer shall thereupon proceed to make such cancellation in the records of the county treasurer. ((~~Thereafter, such lands~~))**

***(4)(a) Lands acquired under this section shall be held in trust, protected, managed, and administered upon, and the proceeds therefrom disposed of, under RCW 79.22.040.**

***(b) During the 2011-2013 fiscal biennium, the legislature may appropriate moneys derived subject to this section from the forest development account consistent with RCW 79.64.100.**

***Sec. 925 was vetoed. See message at end of chapter.**

***Sec. 926. RCW 79.22.040 and 2003 c 334 s 206 are each amended to read as follows:**

***(1) If any land acquired by a county through foreclosure of tax liens, or otherwise, comes within the classification of land described in RCW 79.22.010 and can be used as state forest land and if the department deems such land necessary for the purposes of this chapter, the county shall, upon demand by the department, deed such land to the department and the land shall become a part of the state forest lands.**

***(2) Such land shall be held in trust and administered and protected by the department in the same manner as other state forest lands.**

(3)(a) In the event that the department sells logs using the contract harvesting process described in RCW 79.15.500 through 79.15.530, the moneys derived subject to this section are the net proceeds from the contract harvesting sale.

(b) During the 2011-2013 fiscal biennium, the legislature may appropriate moneys derived subject to this section from the forest development account consistent with RCW 79.64.100.

***Sec. 926 was vetoed. See message at end of chapter.**

Sec. 927. RCW 79.64.040 and 2011 1st sp.s. c 50 s 966 and 2011 c 216 s 16 are each reenacted and amended to read as follows:

(1) The board shall determine the amount deemed necessary in order to achieve the purposes of this chapter and shall provide by rule for the deduction of this amount from the moneys received from all leases, sales, contracts, licenses, permits, easements, and rights-of-way issued by the department and affecting state lands, community forest trust lands, and aquatic lands, provided that no deduction shall be made from the proceeds from agricultural college lands.

(2) Moneys received as deposits from successful bidders, advance payments, and security under RCW 79.15.100, 79.15.080, and 79.11.150 prior to December 1, 1981, which have not been subjected to deduction under this section are not subject to deduction under this section.

(3) Except as otherwise provided in subsections (4) and (6) of this section, the deductions authorized under this section shall not exceed twenty-five percent of the moneys received by the department in connection with any one transaction pertaining to state lands and aquatic lands other than second-class tide and shore lands and the beds of navigable waters, and fifty percent of the moneys received by the department pertaining to second-class tide and shore lands and the beds of navigable waters.

(4) Deductions authorized under this section for transactions pertaining to community forest trust lands must be established at a level sufficient to defray over time the management costs for activities prescribed in a parcel's management plan adopted pursuant to RCW 79.155.080, and, if deemed appropriate by the board consistent with RCW 79.155.090, to reimburse the state and any local entities' eligible financial contributions for acquisition of the parcel.

(5) In the event that the department sells logs using the contract harvesting process described in RCW 79.15.500 through 79.15.530, the moneys received subject to this section are the net proceeds from the contract harvesting sale.

(6) During the ((~~2009-2011~~)) 2011-2013 fiscal biennium ((~~and fiscal year 2012~~)), the twenty-five percent limitation on deductions set in subsection (3) of this section may be increased up to thirty percent by the board.

Sec. 928. RCW 79.64.100 and 2003 c 334 s 219 are each amended to read as follows:

There is created a forest development account in the state treasury. The state treasurer shall keep an account of all sums deposited therein and expended or withdrawn therefrom. Any sums placed in the forest development account shall be pledged for the purpose of paying interest and principal on the bonds issued by the department under RCW 79.22.080 and 79.22.090 and the provisions of this chapter, and for the purchase of land for growing timber. Any

bonds issued shall constitute a first and prior claim and lien against the account for the payment of principal and interest. No sums for the above purposes shall be withdrawn or paid out of the account except upon approval of the department.

Appropriations may be made by the legislature from the forest development account to the department for the purpose of carrying on the activities of the department on state forest lands, lands managed on a sustained yield basis as provided for in RCW 79.10.320, and for reimbursement of expenditures that have been made or may be made from the resource management cost account in the management of state forest lands. For the 2011-2013 fiscal biennium, moneys from the forest development account shall be distributed as directed in section 706 of this act to the beneficiaries of the revenues derived from state forest lands. During the 2011-2013 fiscal biennium, the legislature may appropriate moneys in the forest development account to support emergency fire suppression activities in a manner that, at a maximum, represents the proportion of land that the department manages in comparison to the total land the department conducts emergency fire suppression activities on.

Sec. 929. RCW 79.105.150 and 2011 2nd sp.s. c 9 s 911 are each amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects. During the ((~~2009-2011 and~~)) 2011-2013 fiscal ((~~biennia~~)) biennium, the aquatic lands enhancement account may also be used for scientific research as part of the adaptive management process and for developing a planning report for McNeil Island. During the ((~~2009-2011 and~~)) 2011-2013 fiscal ((~~biennia~~)) biennium, the legislature may transfer from the aquatic lands enhancement account to the state general fund such amounts as reflect excess fund balance of the account. During the 2011-2013 fiscal biennium, the aquatic lands enhancement account may be used to support the shellfish program, the ballast water program, parks, hatcheries, and the Puget Sound toxic sampling program at the department of fish and wildlife, and the knotweed program at the department of agriculture. During the 2011-2013 fiscal biennium, the legislature may transfer from the aquatic lands enhancement account to the marine resources stewardship trust account funds for the purposes of RCW 43.372.070.

(2) In providing grants for aquatic lands enhancement projects, the recreation and conservation funding board shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) Utilize the statement of environmental benefits, consideration, except as provided in RCW 79.105.610, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, whether a project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, and except as otherwise provided in RCW 79.105.630, and effective one calendar

year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030 in its prioritization and selection process; and

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

(5) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 930. RCW 79.105.240 and 2005 c 155 s 147 are each amended to read as follows:

Except as otherwise provided by this chapter, annual rent rates for the lease of state-owned aquatic lands for water-dependent uses shall be determined as follows:

(1)(a) The assessed land value, exclusive of improvements, as determined by the county assessor, of the upland tax parcel used in conjunction with the leased area or, if there are no such uplands, of the nearest upland tax parcel used for water-dependent purposes divided by the parcel area equals the upland value.

(b) The upland value times the area of leased aquatic lands times thirty percent equals the aquatic land value.

(2) As of July 1, 1989, and each July 1st thereafter, the department shall determine the real capitalization rate to be applied to water-dependent aquatic land leases commencing or being adjusted under subsection (3)(a) of this section in that fiscal year. The real capitalization rate shall be the real rate of return, except that until June 30, 1989, the real capitalization rate shall be five percent and thereafter it shall not change by more than one percentage point in any one year or be more than seven percent or less than three percent.

(3) The annual rent shall be:

(a) Determined initially, and redetermined every four years or as otherwise provided in the lease, by multiplying the aquatic land value times the real capitalization rate; and

(b) Adjusted by the inflation rate each year in which the rent is not determined under (a) of this subsection.

(4) If the upland parcel used in conjunction with the leased area is not assessed or has an assessed value inconsistent with the purposes of the lease, the nearest comparable upland parcel used for similar purposes shall be substituted and the lease payment determined in the same manner as provided in this section.

(5) For the purposes of this section, "upland tax parcel" is a tax parcel, some portion of which has upland characteristics. Filled tidelands or

shorelands with upland characteristics which abut state-owned aquatic land shall be considered as uplands in determining aquatic land values.

(6) The annual rent for filled state-owned aquatic lands that have the characteristics of uplands shall be determined in accordance with RCW 79.105.270 in those cases in which the state owns the fill and has a right to charge for the fill.

(7) For all new leases for other water-dependent uses, issued after December 31, 1997, the initial annual water-dependent rent shall be determined by the methods in subsections (1) through (6) of this section.

(8) During the 2011-2013 fiscal biennium, the department may calculate annual rent for qualifying marinas as provided in section 308(12) of this act.

***Sec. 930 was vetoed. See message at end of chapter.**

Sec. 931. RCW 79A.25.200 and 2007 c 241 s 53 are each amended to read as follows:

The recreation resource account is created in the state treasury. Moneys in this account are subject to legislative appropriation. The board shall administer the account in accordance with this chapter and chapter 79A.35 RCW and shall hold it separate and apart from all other money, funds, and accounts of the board. Moneys received from the marine fuel tax refund account under RCW 79A.25.070 shall be deposited into the account. Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and moneys made available to the state of Washington by the federal government for outdoor recreation may be deposited into the account. During the 2011-2013 fiscal biennia, the recreation resource account may be used by the department of fish and wildlife for the purposes of activities related to aquatic and marine enforcement.

Sec. 932. RCW 86.26.007 and 2011 1st sp.s. c 50 s 976 are each amended to read as follows:

The flood control assistance account is hereby established in the state treasury. At the beginning of the 2005-2007 fiscal biennium, the state treasurer shall transfer three million dollars from the general fund to the flood control assistance account. Each biennium thereafter the state treasurer shall transfer four million dollars from the general fund to the flood control assistance account, except that during the ((~~2009-2011 and~~)) 2011-2013 fiscal ((~~biennia~~)) biennium, the state treasurer shall transfer ((~~two~~)) one million dollars from the general fund to the flood control assistance account. Moneys in the flood control assistance account may be spent only after appropriation for purposes specified under this chapter.

Sec. 933. RCW 90.48.390 and 2008 c 329 s 925 are each amended to read as follows:

The coastal protection fund is established to be used by the department as a revolving fund for carrying out the purposes of restoration of natural resources under this chapter and chapter 90.56 RCW. To this fund there shall be credited penalties, fees, damages, charges received pursuant to the provisions of this chapter and chapter 90.56 RCW, compensation for damages received under this chapter and chapter 90.56 RCW, and an amount equivalent to one cent per gallon from each marine use refund claim under RCW 82.36.330.

Moneys in the fund not needed currently to meet the obligations of the department in the exercise of its powers, duties, and functions under RCW 90.48.142, 90.48.366, 90.48.367, and 90.48.368 shall be deposited with the state treasurer to the credit of the fund. During the 2007-2009 fiscal biennium, the coastal protection fund may also be used for a standby rescue tug at Neah Bay. During the 2011-2013 fiscal biennium, the legislature may transfer from the coastal protection fund to the state general fund such amounts as reflect excess fund balance derived from penalties, forfeits, and seizures.

Sec. 934. 2010 c 23 s 205 (uncodified) is amended to read as follows:

(1) The legislature finds that this state's tax policy with respect to the taxation of transactions between affiliated entities and the income derived from such transactions (intercompany transactions) has motivated some taxpayers to engage in transactions designed solely or primarily to minimize the tax effects of intercompany transactions. The legislature further finds that some intercompany transactions result from taxpayers that are required to establish affiliated entities to comply with regulatory mandates and that transactions between such affiliates effectively increases the tax burden in this state on the affiliated group of entities.

(2) Therefore, as existing resources allow, the department of revenue is directed to conduct a review of the state's tax policy with respect to the taxation of intercompany transactions. The review must include the impacts of such transactions under the state's business and occupation tax and state and local sales and use taxes. The department may include other taxes in the review as it deems appropriate.

(3) In conducting the review, the department must examine how this state's tax policy compares to the tax policy of other states with respect to the taxation of intercompany transactions. The department's review must include an analysis of potential alternatives to the current policy of taxing intercompany transactions, including their estimated revenue impacts if practicable.

(4) In conducting this review, the department may seek input from members of the business community and others as it deems appropriate.

(5) The department must report its findings to the fiscal committees of the house of representatives and senate by December 1, 2010. However, if the department has not completed its review by December 1, 2010, the department must provide the fiscal committees of the legislature with a brief status report by December 1, 2010, and the final report by December 1, ((~~2011~~)) 2012.

***NEW SECTION.** **Sec. 935. A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:**

It is the intent of the legislature that regulatory agencies receiving appropriations in this act work with the office of regulatory assistance to:

(1) Establish a small business liaison team to assist small businesses with permitting and regulatory issues.

(2) Take action to assure that additional violations or corrective actions that could have been discovered and noted in the original violation or correction notice are not subsequently added and to provide a single list of any violations discovered during the regulatory visit or inspection;

(3) Provide notice about when the business may expect the results of a technical assistance or regulatory visit;

(4) Provide information about how the business may provide anonymous feedback regarding a technical assistance or other regulatory visit; and

(5) Provide information regarding the role of the agency's small business liaison as a neutral party within the agency, as well as contact information for the liaison.

***Sec. 935 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 936.** A new section is added to 2011 1st sp.s. c 50 (uncodified) to read as follows:

Chapter 50, Laws of 2011 1st sp. sess. (the biennial operating budget) included funding for the pension system cost of legislation adopted during the 2011 session of the legislature. No supplemental rates are authorized for funding that legislation during the remainder of the 2011-2013 fiscal biennium. Pension contribution rates for the public employees' retirement system, the public safety employees' retirement system, the school employees' retirement systems, and the teachers' retirement system are established.

(1) For the public employees' retirement system:

(a) Beginning April 1, 2012, an employer contribution rate of 7.08 percent shall be charged;

(b) Beginning July 1, 2012, an employer contribution rate of 7.21 percent shall be charged.

(2) For the public safety employees' retirement system:

(a) Beginning April 1, 2012, an employer contribution rate of 8.74 percent shall be charged;

(b) Beginning July 1, 2012, an employer contribution rate of 8.87 percent shall be charged.

(3) For the school employees' retirement system:

(a) Beginning April 1, 2012, an employer contribution rate of 7.58 percent shall be charged;

(b) Beginning September 1, 2012, an employer contribution rate of 7.59 percent shall be charged.

(4) For the teachers' retirement system:

(a) Beginning April 1, 2012, an employer contribution rate of 8.04 percent shall be charged; and

(b) Beginning September 1, 2012, an employer contribution rate of 8.05 percent shall be charged.

These rates are inclusive of a department of retirement systems expense charge of 0.16 percent. The department of retirement systems shall collect employee contributions as provided in chapter 41.45 RCW.

NEW SECTION. **Sec. 937.** 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. 938.** 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 House April 11, 2012.
Passed by the Senate April 11, 2012.
Approved by the Governor May 2, 2012, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State May 2, 2012.

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

"I am returning, without my approval as to Sections 124; 131(5); 204(1)(f); 205(2)(c); 205(2)(d); 211(6); 213(40); 213(44); 213(45); 213(49); 213(54); 302(13); 308, page 144, lines 27-28; 308(2); 308(12); 505(9); 511(18); 601(7); 714; 919; 925; 926; 930; and 935, Third Engrossed Substitute House Bill 2127 entitled:

"AN ACT Relating to fiscal matters."

Section 124, page 18, Office of the State Treasurer, Supplemental Budget Reductions
The State Treasurer has made significant contributions to solving the state's budget problem, including proposing a $12.6 million transfer from the State Treasurer's Service Account to the General Fund for my proposed 2012 supplemental operating budget. The Legislature increased this transfer to the General Fund by another $3.5 million in Section 804 of this budget. This section would reduce appropriations to the Office of the State Treasurer by $1.2 million. The Treasurer believes this 15 percent reduction would likely lead to lower investment earnings and higher risks to public funds. Moreover, this reduction in the Treasurer's appropriation does not help the General Fund. Rather, it is the transfers in Section 804 that help the General Fund and this appropriation reduction was not included in the transfer. I am leaving Section 804 intact, but given the impacts that the appropriation reduction could have on timely administration of state finances, I am vetoing Section 124. The Treasurer has volunteered to place actual savings in reserve for a later transfer to the General Fund to help balance the next supplemental budget. For these reasons, I have vetoed Section 124.

Section 131(5), pages 32-34, Office of Financial Management, Office of Regulatory Assistance Section 935, page 276, Office of Regulatory Assistance and Regulatory Agencies, Small Business Activities
The Office of Regulatory Assistance (ORA) is directed to coordinate an agency small business liaison team with regulatory agencies to recommend improvements to inspection practices and customer service. In addition, ORA must develop anonymous customer service surveys related to regulatory agencies and post them to its website. Similar activities were the subject of legislation that failed to pass the Legislature. The underlying goals of this proviso have already been

incorporated into Executive Order 12-01, which directed ORA to establish a small business liaison program, conduct regular outreach with small business groups to streamline and reduce redundancy in regulatory practices and inspections, and establish a web-based customer survey tool for input from all businesses. However, these legislative provisos also set prescriptive requirements on regulatory agencies to document inspection violations and corrective notices. These requirements should be established through a statutory change rather than the budget. In addition, insufficient funding is provided to ORA and regulatory agencies to implement these requirements. For these reasons, I have vetoed Section 131(5) and Section 935.

Section 204(1)(f), pages 60-61, Department of Social and Health Services, Jail Services Study

The Department of Social and Health Services is directed to submit a report to the Legislature by December 1, 2012, regarding the utilization of mental health services by those who are incarcerated or have been recently released from incarceration. No funding was provided to the Department to identify and compile the data necessary to compose the report by the deadline. For this reason, I have vetoed Section 204(1)(f).

Section 205(2)(c), pages 71-72, Department of Social and Health Services, Student Transition Funding

Funding is provided to the Department to contract with school districts for instructional support of new students with developmental disabilities that are admitted to a Residential Habilitation Center (RHC). This budget contains three mechanisms for school districts to obtain additional funding for providing special education services to students housed at RHCs, including one program based on demonstrated need for special education funding in excess of state and federal funding otherwise provided. Only one district would be eligible for this transition funding and it failed to demonstrate excessive costs related to special education for the 2011-12 school year. Because school districts have access to other fund sources when there is a demonstrated need, I have vetoed Section 205(2)(c).

Section 205(2)(d), page 72, Department of Social and Health Services, Rainier School Long-Range Development Plan

This proviso appropriates $600,000 to create a long-range vision and development plan for Rainier School. Chapter 30, Laws of 2011 established a task force to make recommendations regarding the development of a system of services for persons with developmental disabilities and the state's long-term needs for residential habilitation center capacity. The long-range vision and development plan for Rainier School should be and is part of this larger, statewide strategy. For this reason, I have vetoed Section 205(2)(d).

Section 211(6), pages 87-88, Department of Social and Health Services, Funding for Community Initiative

The Department of Social and Health Services (DSHS) is required to maintain separate centralized administrative services for community health and safety networks that remain after the sunset of the Family Policy Council. DSHS has the administrative capacity to support this initiative within its current infrastructure. A separate administrative system within the Secretary's office is not necessary. For this reason, I have vetoed Section 211(6).

Section 213(40), page 103, Health Care Authority, Critical Access Hospitals

This proviso requires the Health Care Authority (HCA), in collaboration with numerous parties, to submit a design for rural health system access and quality incentive payments to the Legislature in December 2012. This represents a significant undertaking for which no funding is provided. However, the issue of how to use limited resources to best meet the health care needs of our state's rural residents is an important one. I understand the Legislature intends to focus on this issue, and I will ask my staff and the staff of the relevant agencies to participate in and support these efforts. For this reason, I have vetoed Section 213(40).

Section 213(44), page 106, Health Care Authority, Facility Fees

This item directs the HCA to complete a study on the payment of facility fees and to issue a report to the Legislature by November 1, 2012. Both funding and time is insufficient for the successful completion of this study. Further, the Legislature passed Engrossed Substitute House Bill 2582 this past session which will require hospitals to report to the Department of Health a number of data requirements in regard to facility fees after January 1, 2013. It is premature to conduct this study until the necessary data are submitted and analyzed. For these reasons, I have vetoed Section 213(44).

Section 213(45), pages 106-107, Health Care Authority, Medicaid Managed Care
Section 213(45) requires the director of the HCA to make specific certifications of network adequacy to the Legislature and the Governor prior to awarding a contract for Medicaid managed care services. It also requires a rebidding process in counties where a certification cannot be established and prohibits a reversion to fee-for-service as a result of the procurement process. I am concerned that this proviso circumvents state laws requiring competitive procurements to be free from influence or bias. Competitive procurements ensure that public contracts are awarded based on quality and cost. The agency recently completed its procurement process for Medicaid managed care services. New competitors in the market were able to offer innovative proposals without sacrificing access or quality of care, saving taxpayers $131 million in this biennium. This was done under the specific directive in this operating budget to "place substantial emphasis upon price competition in the selection of successful bidders," when awarding managed care contracts for Medicaid enrollees. A federal judge recently upheld the competitive process. Unfortunately, some competitors did not compete on price, quality, and innovation criteria. This result is what we expect from a competitive procurement process. For these reasons, I have vetoed Section 213(45).

Section 213(49), page 108, Health Care Authority, Lowest Cost Generic Bidding
This proviso permits the HCA to enter into a competitive bidding process for the purchase of lowest cost generic drugs within the Medicaid program. The HCA already has the statutory authority to pursue competitive contracts through the Preferred Drug Program, and therefore, this proviso is not necessary. The current procurement model used by the agency has proven effective in obtaining the lowest cost generic on the market. Increased use of generic drugs has reduced Medicaid expenditures by $118 million in the past five fiscal years. The model also is flexible in meeting the needs of patients and pharmacies by not limiting the choice of generic products and instead providing incentives for dispensing at the lowest cost. However, if another model were to prove more effective, current law gives the HCA the authority to move forward. For these reasons, I have vetoed Section 213(49).

Section 213(54), page 109, Health Care Authority, Rural Health Clinics
The HCA is directed to develop an alternative payment and reconciliation methodology for rural health clinics by December 1, 2012. This proviso is unnecessary as the HCA is committed to continuing discussions with the Rural Health Clinic Association of Washington and the Centers for Medicare and Medicaid Services to identify viable options for developing alternative payment and reconciliation methods. Groundwork was laid for this discussion with federal regulators last summer and fall, as the agency began exploratory discussions with the new federal Center for Medicare and Medicaid Innovation to gauge federal tolerance for innovation in this area. In addition, too little time and money were provided to develop the study. For these reasons, I have vetoed Section 213(54).

Section 302(13), page 136, Department of Ecology, Implementation of Children's Safe Products Legislation
This proviso funds the Department of Ecology's responsibilities for implementing either Senate Bill 6120 or House Bill 2821, regarding children's safe products, with legislative direction that the appropriations would lapse if the bills were not enacted. These bills did not pass. For this reason, I have vetoed Section 302(13).

Section 308, page 144, lines 27-28, Department of Natural Resources, Fiscal Year 2013 General Fund-State Appropriation Change
Section 308(2), page 146, Department of Natural Resources, Emergency Fire Suppression
Section 925, page 268, Department of Natural Resources, Forest Development Account
Section 926, pages 268-269, Department of Natural Resources, Forest Development Account
Section 308(2) shifts $2.1 million in fire suppression costs to the Forest Development Account, which is a trust management account used by the Department of Natural Resources (DNR) to pay for management of state forest trust lands that benefit 19 timber-dependent counties. It is not appropriate to require these 19 counties to bear the statewide costs of fire suppression, even partially, while other trusts and timber landowners remain unaffected. Additionally, $623,000 in fire suppression overtime savings is assumed in this reduction, which is not feasible to achieve by DNR and its partners to manage wildfire responses. For these reasons, I have vetoed Section 308(2).

To restore funding sufficient to cover the $2.1 million in fire suppression costs shifted back to the General Fund, I have also vetoed the fiscal year 2013 General Fund appropriation revision found in Section 308, page 144, lines 27-28. Because this veto will restore more funding than necessary to cover the fire suppression costs shifted back to General Fund-State, the Commissioner of Public

Lands has agreed, at my request, to place $1.2 million General Fund-State in reserve for fiscal year 2013.

Sections 925 and 926 make statutory changes needed to allow the use of the Forest Development Account for fire suppression costs by the Department of Natural Resources proposed in Section 308(2). Because I have vetoed Section 308(2), I have also vetoed Section 925 and Section 926.

Section 308(12), pages 148-149, Department of Natural Resources, Marina Rent Rates
Section 930, pages 272-273, Department of Natural Resources, Calculation of Annual Rent for Qualifying Marinas

These items have the effect of reducing marina rent solely benefiting up to six marinas in our state. Revising marina rent rates has long been an issue before the Legislature. The Department has completed several different studies and options for revising marina rents and introduced legislation as early as 2011 to implement these changes. These studies have clearly demonstrated that the current method to set marina rents is inequitable. The Legislature needs to take action on a permanent statutory change that addresses rents for all marinas within the state, not simply "pilot" a rent reduction for a few marinas through the budget. Additionally, the lower rent rates would reduce revenue to the Aquatic Lands Enhancement Account by $75,000 per year, an account which is already over-appropriated by $2 million. For these reasons, I have vetoed Section 308(12) and Section 930.

Section 505(9), page 180, Office of the Superintendent of Public Instruction, Development of New Transportation Allocation Formula

The Office of the Superintendent of Public Instruction (OSPI) is required to develop a new state unit-cost pupil transportation funding allocation for schools, or a hybrid formula, for legislative consideration and potential adoption. From 2006 to 2011, the state invested more than $1,000,000 to study and implement pupil transportation formula options. Consultants for the study, along with a working group of school district finance and transportation experts, recommended the expected cost model of funding over a unit-cost model. This model was enacted by the Legislature, effective September 1, 2011, and OSPI has proceeded with implementation. The state has carefully considered various formula options and invested considerable effort into developing the expected cost model. Another pupil transportation study is unwarranted. For these reasons, I have vetoed Section 505(9).

Section 511(18), page 192, Office of the Superintendent of Public Instruction, Education Reform Program, American Academy

This proviso allocates $200,000 solely for The American Academy to provide social support and academic interventions to at-risk students. The American Academy is one of many programs in the state providing services to at-risk students. This proviso singles out a specific provider, The American Academy, for additional funding when other programs serving at-risk students are equally deserving. For this reason, I have vetoed Section 511(18).

Section 601(7), page 200, State Board for Community and Technical Colleges, Bellevue College Baccalaureate Degrees

Bellevue College would be temporarily authorized through this budget proviso to offer baccalaureate degrees, rather than applied baccalaureate degrees as currently authorized. The current applied baccalaureate pilot program at Bellevue College and other participating institutions shows promise. While expansion of baccalaureate degree programs into the state's community and technical college system may ultimately prove to be sound public policy, such authorization through a budget proviso is the wrong approach. The Legislature endorsed the System Design Plan in 2010 for the purpose of establishing a process for the expansion of new programs and degrees where there is demand and to ensure financial sustainability. This important planning process cannot succeed if independent authorization is given in a budget proviso. Moreover, it is unlikely that implementation of degree programs on a new campus can be completed by June 30, 2013, when the authority in this subsection will expire. For these reasons, I have vetoed Section 601(7).

Section 714, pages 232-233, Office of Financial Management, Fiscal Year 2013 Information Technology Savings

Section 714 directs the Office of Financial Management to identify information technology (IT) savings and to reduce state agency allotments by $10 million in all funds. The 2011-13 budget already includes another $60 million in central service reductions, as well as administrative cuts in multiple agencies and the expectation that agencies will under-spend their revised budgets by $120 million of reversions. While the state will continue to pursue savings in IT and other back office functions, we have to be realistic about the detrimental effect of random reduction targets. At some point, agencies will not be able to deliver expected services even with increased productivity. So, enough is enough. For this reason, I have vetoed Section 714.

Section 919, pages 253-257, Office of the Governor, Across-the-Board Reductions

Existing law gives the Governor authority to impose across-the-board spending reductions when a cash deficit is projected in a particular fund. To prevent the necessity of a special session if revenues decline, I asked the Legislature for more flexibility in the event there was a need to reduce State General Fund expenditure authority. However, this language actually reduces executive flexibility by mandating that all provisoed amounts be reduced by the same percentage as separate appropriations. While agencies must respect legislative priorities when implementing across-the-board reductions, mandating the preservation of provisoed funds over core services is the wrong approach. For these reasons, I have vetoed Section 919.

I am not vetoing Section 307, which transfers $3.3 million of the Department of Fish and Wildlife's enforcement expenses from the State General Fund to the Recreation Resources Account. However, I do have concerns about this provision of the bill. A veto would not restore the $3.3 million General Fund reduction and would result in the elimination of 30 enforcement officer positions. The Department cannot effectively enforce state fish and wildlife regulations with a reduction of this magnitude. The Recreation Resources Account provides grants for local boating projects across the state. The Legislature should reconsider this transfer next session.

With the exception of Sections 124; 131(5); 204(1)(f); 205(2)(c); 205(2)(d); 211(6); 213(40); 213(44); 213(45); 213(49); 213(54); 302(13); 308, page 144, lines 27-28; 308(2); 308(12); 505(9); 511(18); 601(7); 714; 919; 925; 926; 930; and 935, Third Engrossed Substitute House Bill 2127 is approved."

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 2012 session (62nd Legislature), chapters 177 through 262, the 2012 first special session, chapters 1 through 10, and the 2012 second special session, chapters 1 through 7, respectively, 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 19nd day of June, 2012.

K. KYLE THIESSEN
Code Reviser

PROPOSED CONSTITUTIONAL AMENDMENT
ADOPTED AT THE 2012 REGULAR SESSION
FOR SUBMISSION TO THE VOTERS
AT THE STATE GENERAL ELECTION, NOVEMBER 2012

SENATE JOINT RESOLUTION 8223

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 XXIX, section 1 of the Constitution of the state of Washington to read as follows:

Article XXIX, section 1. Notwithstanding the provisions of sections 5, and 7 of Article VIII and section 9 of Article XII or any other section or article of the Constitution of the state of Washington((,)):

(1) The moneys of any public pension or retirement fund, industrial insurance trust fund, or fund held in trust for the benefit of persons with developmental disabilities may be invested as authorized by law; and

(2) The public moneys of the University of Washington and Washington State University in investment funds specified by the legislature may be invested as authorized by law.

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 Senate March 6, 2012.
Passed by the House March 2, 2012.
Filed in Office of Secretary of State March 9, 2012.

PROPOSED CONSTITUTIONAL AMENDMENT
ADOPTED AT THE 2012 SECOND SPECIAL SESSION
FOR SUBMISSION TO THE VOTERS
AT THE STATE GENERAL ELECTION, NOVEMBER 2012

ENGROSSED SENATE JOINT RESOLUTION 8221

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 VIII, section 1 of the Constitution of the state of Washington to read as follows:

"Article VIII, section 1. (a) The state may contract debt, the principal of which shall be paid and discharged within thirty years from the time of contracting thereof, in the manner set forth herein.

(b) The aggregate debt contracted by the state, as calculated by the treasurer at the time debt is contracted, shall not exceed that amount for which payments of principal and interest in any fiscal year would require the state to expend more than ((~~nine percent~~)) the applicable percentage limit of the arithmetic mean of its general state revenues for the ((~~three~~)) six immediately preceding fiscal years as certified by the treasurer. The term "applicable percentage limit" means eight and one-half percent from July 1, 2014, through June 30, 2016; eight and one-quarter percent from July 1, 2016, through June 30, 2034; eight percent from July 1, 2034, and thereafter. The term "fiscal year" means that period of time commencing July 1 of any year and ending on June 30 of the following year.

(c) The term "general state revenues," when used in this section, shall include all state money received in the treasury from each and every source ((~~whatsoever except~~)), including moneys received from ad valorem taxes levied by the state and deposited in the general fund in each fiscal year, but not including: (1) Fees and other revenues derived from the ownership or operation of any undertaking, facility, or project; (2) Moneys received as gifts, grants, donations, aid, or assistance or otherwise from the United States or any department, bureau, or corporation thereof, or any person, firm, or corporation, public or private, when the terms and conditions of such gift, grant, donation, aid, or assistance require the application and disbursement of such moneys otherwise than for the general purposes of the state of Washington; (3) Moneys to be paid into and received from retirement system funds, and performance bonds and deposits; (4) Moneys to be paid into and received from trust funds ((~~including but not limited to moneys received from taxes levied for specific purposes~~)) and the several permanent and irreducible funds of the state and the moneys derived therefrom but excluding bond redemption funds; (5) Moneys received from taxes levied for specific purposes and required to be deposited for those purposes into specified funds or accounts other than the general fund; and (6) Proceeds received from the sale of bonds or other evidences of indebtedness.

(d) In computing the amount required for payment of principal and interest on outstanding debt under this section, debt shall be construed to mean borrowed money represented by bonds, notes, or other evidences of indebtedness which are secured by the full faith and credit of the state or are required to be repaid, directly or indirectly, from general state revenues and which are incurred by the state, any department, authority, public corporation, or quasi public corporation of the state, any state university or college, or any other public agency created by the state but not by counties, cities, towns, school districts, or other municipal corporations, but shall not include obligations for the payment of current expenses of state government, nor shall it include debt hereafter incurred pursuant to section 3 of this article, obligations guaranteed as provided for in subsection (g) of this section, principal of bond anticipation notes or obligations issued to fund or refund the indebtedness of the Washington state building authority. In addition, for the purpose of computing the amount required for payment of interest on outstanding debt under subsection (b) of this section and this subsection, "interest" shall be reduced by subtracting the amount scheduled to be received by the state as payments from the federal government in each year

in respect of bonds, notes, or other evidences of indebtedness subject to this section.

(e) The state may pledge the full faith, credit, and taxing power of the state to guarantee the voter approved general obligation debt of school districts in the manner authorized by the legislature. Any such guarantee does not remove the debt obligation of the school district and is not state debt.

(f) The state may, without limitation, fund or refund, at or prior to maturity, the whole or any part of any existing debt or of any debt hereafter contracted pursuant to section 1, section 2, or section 3 of this article, including any premium payable with respect thereto and interest thereon, or fund or refund, at or prior to maturity, the whole or any part of any indebtedness incurred or authorized prior to the effective date of this amendment by any entity of the type described in subsection (h) of this section, including any premium payable with respect thereto and any interest thereon. Such funding or refunding shall not be deemed to be contracting debt by the state.

(g) Notwithstanding the limitation contained in subsection (b) of this section, the state may pledge its full faith, credit, and taxing power to guarantee the payment of any obligation payable from revenues received from any of the following sources: (1) Fees collected by the state as license fees for motor vehicles; (2) Excise taxes collected by the state on the sale, distribution or use of motor vehicle fuel; and (3) Interest on the permanent common school fund: *Provided*, That the legislature shall, at all times, provide sufficient revenues from such sources to pay the principal and interest due on all obligations for which said source of revenue is pledged.

(h) No money shall be paid from funds in custody of the treasurer with respect to any debt contracted after the effective date of this amendment by the Washington state building authority, the capitol committee, or any similar entity existing or operating for similar purposes pursuant to which such entity undertakes to finance or provide a facility for use or occupancy by the state or any agency, department, or instrumentality thereof.

(i) The legislature shall prescribe all matters relating to the contracting, funding or refunding of debt pursuant to this section, including: The purposes for which debt may be contracted; by a favorable vote of three-fifths of the members elected to each house, the amount of debt which may be contracted for any class of such purposes; the kinds of notes, bonds, or other evidences of debt which may be issued by the state; and the manner by which the treasurer shall determine and advise the legislature, any appropriate agency, officer, or instrumentality of the state as to the available debt capacity within the limitation set forth in this section. The legislature may delegate to any state officer, agency, or instrumentality any of its powers relating to the contracting, funding or refunding of debt pursuant to this section except its power to determine the amount and purposes for which debt may be contracted.

(j) The full faith, credit, and taxing power of the state of Washington are pledged to the payment of the debt created on behalf of the state pursuant to this section and the legislature shall provide by appropriation for the payment of the interest upon and installments of principal of all such debt as the same falls due, but in any event, any court of record may compel such payment.

(k) Notwithstanding the limitations contained in subsection (b) of this section, the state may issue certificates of indebtedness in such sum or sums as

may be necessary to meet temporary deficiencies of the treasury, to preserve the best interests of the state in the conduct of the various state institutions, departments, bureaus, and agencies during each fiscal year; such certificates may be issued only to provide for appropriations already made by the legislature and such certificates must be retired and the debt discharged other than by refunding within twelve months after the date of incurrence.

(l) Bonds, notes, or other obligations issued and sold by the state of Washington pursuant to and in conformity with this article shall not be invalid for any irregularity or defect in the proceedings of the issuance or sale thereof and shall be incontestable in the hands of a bona fide purchaser or holder thereof.

Approved . . . . . .
Rejected . . . . . ."

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 Senate April 11, 2012.
Passed by the House April 11, 2012.
Filed in Office of Secretary of State April 12, 2012.

Number	Chapter Number Laws of 2012		
Init	1163		
Init	1183		
SENATE			
ESB	5127 .1	E2	
ESB	5159 .72		
E2SSB	5188 .85		
SSB	5217 .148		
SSB	5246 .73		
SB	5259 .20		
E2SSB	5292 .21		
2SSB	5343 .238		
2SSB	5355 .188		
SB	5365 .239		
SSB	5381 .115		
SSB	5412 .54		
E2SSB	5539 .189		
ESSB	5575 .22		
E2SSB	5620 .23		
SSB	5627 .24		
SSB	5631 .25		
ESB	5661 .190		
ESSB	5715 .149		
SSB	5766 .174		
ESSB	5895 .35		
SB	5913 .26		
ESSB	5940 .3	E2	
SB	5950 .240		
SSB	5966 .150		
ESSB	5978 .241		PV
SB	5981 .61		
SSB	5982 .242		
SSB	5984 .4		
ESSB	5991 .55		
SSB	5995 .191		
SSB	5997 .243		
SSB	6002 .244		
SSB	6005 .27		
SB	6030 .28		
SSB	6038 .245		
SSB	6041 .151		
SSB	6044 .246		
SB	6046 .116		
SB	6059 .43		
SSB	6073 .77		
ESB	6074 .2	E2	PV
SSB	6081 .78		
SB	6082 .247		
SB	6095 .117		

Number	Chapter Number Laws of 2012		
SB	6098 118		
SSB	6100 29		
ESSB	6103 137		
SSB	6105 192		
SB	6108 30		
SSB	6112 75		
SSB	6116 175		
SSB	6121 31		
SB	6131 119		
SB	6133 32		
SB	6134 248		
SSB	6135 176		
SSB	6138 79		
2SSB	6140 193		
ESB	6141 33		
ESSB	6150 80		
ESB	6155 56		
SB	6157 120		
SB	6159 249		PV
SSB	6167 44		
SB	6171 81		
SB	6172 121		
SB	6175 122		
SSB	6187 250		
2E2SSB	6204 6	E1	
SSB	6208 123		
ESB	6215 152		
SB	6218 124		
SB	6223 57		
SSB	6226 251		
ESSB	6237 153		
ESSB	6239 3		
SSB	6240 177		
SSB	6242 154		
ESSB	6251 138		
ESSB	6252 139		
SSB	6253 140		
ESB	6254 141		
ESB	6255 142		
SB	6256 143		
ESB	6257 144		
SSB	6258 145		
2SSB	6263 252		PV
SSB	6277 194		
E2SSB	6284 82		
SB	6289 40		
SB	6290 45		
SSB	6295 34		
ESB	6296 125		

"E1" Denotes 2012 1st special session

Number	Chapter Number Laws of 2012		
SSB	6315		
SSB	6325		
SSB	6328		
SSB	6354		
ESSB	6355		
SSB	6359		
SSB	6371		
2ESB	6378	E1	
ESSB	6383		
SSB	6384		
SB	6385		
SSB	6386		
SSB	6387		
SSB	6403		
2ESSB	6406	E1	PV
SB	6412		
SSB	6414		
SSB	6421		
SSB	6423		
SSB	6444		
ESSB	6445		
SB	6465		
SSB	6468		
ESSB	6470		
SSB	6472		
ESSB	6486		PV
SSB	6492		
SSB	6493		
SSB	6494		
SSB	6508		PV
SB	6545		
ESSB	6555		
SB	6566		
SSB	6574		
SSB	6581		
SSB	6600		
ESB	6608		
ESB	6635	E2	
SSB	6636	E1	

HOUSE

Number	Chapter Number Laws of 2012		
SHB	1057		
SHB	1073		
SHB	1194		
EHB	1234		
HB	1381		
EHB	1398		
HB	1486		
SHB	1552		
SHB	1559		
ESHB	1627		
2SHB	1652		
SHB	1700		
SHB	1775		
ESHB	1820		
E3SHB	1860		
ESHB	1983		
ESHB	2048		
SHB	2056		
3ESHB	2127	E2	PV
HB	2138		
SHB	2139		
SHB	2149		
EHB	2152		
2SHB	2156		
SHB	2177		
SHB	2181		
EHB	2186		
SHB	2188		
ESHB	2190		PV
SHB	2191		
SHB	2194		
HB	2195		
ESHB	2197		
HB	2210		
SHB	2212		
HB	2213		
2SHB	2216		
ESHB	2223		
HB	2224		
ESHB	2229		
ESHB	2233		
E2SHB	2238		
SHB	2239		
HB	2244		
HB	2247		
SHB	2252		
SHB	2254		
SHB	2255		
SHB	2259		
SHB	2261		
EHB	2262		
SHB	2263		
E2SHB	2264		
HB	2274		
HB	2293		
SHB	2299		
ESHB	2301		

"E1" Denotes 2012 1st special session

BILL NO. TO CHAPTER NO. OF 2012 STATUTES

Number	Chapter Number Laws of 2012	
ESHB	2302 42	
HB	2304 19	
HB	2305 218	
HB	2306 100	
HB	2308 165	
SHB	2312 69	
SHB	2313 228	
ESHB	2314 164	
ESHB	2318 101	
E2SHB	2319 87	PV
SHB	2326 219	
EHB	2328 102	
HB	2329 166	
E2SHB	2337 178	
ESHB	2341 103	
HB	2346 220	
ESHB	2347 179	
SHB	2349 167	
SHB	2352 104	
SHB	2354 105	
HB	2356 221	
SHB	2357 180	
SHB	2360 206	
ESHB	2361 222	
HB	2362 106	
ESHB	2363 223	
ESHB	2366 181	
SHB	2367 107	
E2SHB	2373 261	
ESHB	2384 108	
SHB	2389 182	
HB	2393 109	
HB	2420 207	
SHB	2422 63	
HB	2440 38	
2SHB	2443 183	
2SHB	2452 224	
HB	2456 168	
HB	2459 70	
EHB	2469 169	
ESHB	2473 208	
HB	2482 225	
E2SHB	2483 229	PV
HB	2485 209	

Number	Chapter Number Laws of 2012		
SHB	2491 2	E1	
SHB	2492 210		
HB	2499 226		
ESHB	2502 170		
HB	2523 211		
HB	2535 146		
E2SHB	2536 232		
ESHB	2545 171		
3E2SHB	2565 4	E2	
ESHB	2567 60		
ESHB	2570 233		PV
ESHB	2571 234		
SHB	2574 71		
ESHB	2582 184		
3SHB	2585 230		PV
ESHB	2586 51		
SHB	2590 3	E1	
ESHB	2592 52		
ESHB	2614 185		
SHB	2617 186		
EHB	2620 187		
SHB	2640 235		
HB	2651 110		
HB	2653 111		
SHB	2657 147		PV
EHB	2660 74		
ESHB	2664 112		
EHB	2671 172		
SHB	2673 66		
ESHB	2692 136		PV
HB	2705 113		
ESHB	2747 173		
SHB	2757 114		
HB	2758 39		
EHB	2771 236		
ESHB	2799 53		
HB	2803 237		
EHB	2814 84		
HB	2822 9	E1	
ESHB	2823 5	E2	
HB	2824 10	E1	
SHB	2828 4	E1	
HB	2834 5	E1	PV

"E1" Denotes 2012 1st special session

RCW SECTIONS AFFECTED BY 2012 STATUTES

LEGEND

ADD	=	Add a new section
AMD	=	Amend existing law
DECD	=	Decodify existing law
RECD	=	Recodify existing law
REEN	=	Reenact existing law
REMD	=	Reenact and amend
REP	=	Repeal existing law

RCW		CH.		SEC.
1.12.080	AMD	3		13
1.16.050	REMD	11		1
1.20.017	AMD	11		2
2.10.080	AMD	187		16
2.10.180	AMD	159		17
2.12.037	AMD	117		1
2.12.090	AMD	159		18
2.28.175	AMD	183		1
2.68.020	REMD	7	E2	913
2.70	ADD	257		2
2.70.020	AMD	257		1
3.50.100	AMD	134		5
3.50.100	AMD	136		3
3.62.020	AMD	134		6
3.62.020	AMD	136		4
3.62.020	AMD	262		1
3.62.040	AMD	134		7
3.62.040	AMD	136		5
3.62.060	AMD	199		1
4.16.040	AMD	185		3
4.24	ADD	9		2
4.24	ADD	203		1
4.24	ADD	259		13
4.24.115	AMD	160		1
4.24.210	REMD	15		1
4.28.080	AMD	211		1
4.56.200	AMD	133		1
4.92.100	AMD	250		1
4.96.020	AMD	250		2
5	ADD	95		1-8
5.60.060	AMD	29		12
6.15.010	AMD	117		2
6.27	ADD	159		4
6.27.010	AMD	159		1
6.27.090	AMD	159		2
6.27.100	AMD	159		3
6.27.110	AMD	159		6
6.27.140	AMD	159		7
6.27.140	AMD	159		8
6.27.150	AMD	159		9
6.27.190	AMD	159		10
6.27.200	AMD	159		11
6.27.250	AMD	159		12
6.27.330	AMD	159		13
6.27.340	AMD	159		5
6.27.350	AMD	159		14
6.27.360	AMD	159		15
6.27.370	AMD	159		16
7.70.060	AMD	101		1
7.71	ADD	165		2
7.71.030	AMD	165		1
7.84.020	AMD	176		2
7.84.030	AMD	176		1
7.84.100	AMD	262		2
9.41	ADD	179		2
9.41.250	AMD	179		1
9.46.0315	AMD	131		1
9.46.070	AMD	116		1
9.68A	ADD	135		2-4
9.68A	ADD	138		2
9.68A.001	AMD	135		1
9.68A.101	AMD	144		1
9.68A.105	AMD	134		4
9.94A.030	REMD	143		1
9.94A.475	AMD	183		2
9.94A.515	REMD	162		1
9.94A.515	REMD	176		3
9.94A.533	AMD	42		3
9.94A.631	AMD	6	E1	1
9.94A.633	REMD	6	E1	2
9.94A.640	AMD	183		3
9.94A.704	AMD	6	E1	3
9.94A.706	AMD	6	E1	4
9.94A.714	AMD	6	E1	5
9.94A.716	AMD	6	E1	6
9.94A.737	AMD	6	E1	7
9.94A.740	AMD	6	E1	8
9.95.210	AMD	6	E1	9
9.95.210	AMD	6	E1	10
9.95.210	AMD	183		4
9.95.270	AMD	117		3
9.96.020	AMD	117		4
9.96.060	AMD	142		2
9.96.060	AMD	183		5
9A.04.080	REMD	105		1
9A.40.090	AMD	145		1
9A.40.100	AMD	134		1
9A.40.100	AMD	144		2
9A.44.128	AMD	134		2
9A.46.040	AMD	223		1
9A.46.080	AMD	223		2

RCW SECTIONS AFFECTED BY 2012 STATUTES

RCW		CH.	SEC.
9A.56.030	AMD	233	2
9A.56.040	AMD	233	3
9A.56.096	AMD	30	1
9A.60.070	AMD	229	501
9A.76.200	AMD	94	2
9A.82.010	AMD	139	1
9A.82.100	AMD	139	2
9A.88	ADD	140	1
9A.88	ADD	142	1
9A.88.070	AMD	141	1
9A.88.120	AMD	134	3
9A.88.130	AMD	136	2
10	ADD	37	1-4
10.14	ADD	223	4
10.19	ADD	6	1
10.77	ADD	256	2,7,12
10.77.060	AMD	256	3
10.77.065	AMD	256	4
10.77.084	AMD	256	5
10.77.086	AMD	256	6
10.82.070	AMD	134	8
10.82.070	AMD	136	6
10.97.030	AMD	125	1
10.97.050	AMD	125	2
10.97.080	AMD	125	3
10.99.040	AMD	223	3
13.34.267	AMD	52	4
13.40	ADD	146	2,3
13.40.020	AMD	201	1
13.40.0357	REMD	177	4
13.40.038	AMD	120	1
13.40.080	AMD	201	2
13.40.127	AMD	177	1
13.40.180	AMD	177	3
13.50.050	REMD	177	2
15.44.010	AMD	107	1
15.44.020	AMD	107	2
15.44.021	AMD	107	3
15.44.022	AMD	107	4
15.44.027	AMD	107	5
15.44.030	AMD	107	6
15.44.032	AMD	107	7
15.44.033	AMD	107	8
15.44.035	AMD	107	9
15.49.380	AMD	61	1
15.53.902	AMD	25	2
15.58.150	AMD	25	6
15.58.370	REP	25	7
15.76.100	AMD	221	1
15.76.110	AMD	221	2
15.76.165	AMD	221	3
16.08.040	AMD	94	1
16.24.120	REMD	25	5
16.65.440	REEN	25	3
18	ADD	23	1-5
18	ADD	153	1-12
18.20.010	REMD	10	1
18.20.020	REMD	10	2
18.20.030	AMD	10	3
18.20.050	AMD	10	4
18.20.090	AMD	10	5
18.20.110	AMD	10	6
18.20.115	AMD	10	7
18.20.125	AMD	164	504
18.20.130	AMD	10	8
18.20.140	AMD	10	9
18.20.150	AMD	10	10
18.20.160	AMD	10	11
18.20.170	AMD	10	12
18.20.190	AMD	10	13
18.20.220	AMD	10	14
18.20.230	AMD	10	15
18.20.270	AMD	10	16
18.20.270	AMD	164	702
18.20.280	AMD	10	17
18.20.290	AMD	10	18
18.20.300	AMD	10	19
18.20.310	AMD	10	20
18.20.320	AMD	10	21
18.20.330	AMD	10	22
18.20.340	AMD	10	23
18.20.350	AMD	10	24
18.20.360	AMD	10	25
18.20.370	AMD	10	26
18.20.380	AMD	10	27
18.20.390	AMD	10	28
18.20.400	AMD	10	29
18.20.410	AMD	10	30
18.20.420	AMD	10	31
18.20.430	AMD	10	32
18.20.440	AMD	10	33
18.20.900	AMD	10	34
18.28.010	AMD	56	1
18.28.080	AMD	56	2
18.32.030	AMD	23	7
18.39.250	AMD	206	2
18.44	ADD	17	14,15
18.44.021	AMD	124	1
18.51.010	AMD	10	35
18.52C.020	AMD	10	36

RCW SECTIONS AFFECTED BY 2012 STATUTES

RCW		CH.	SEC.
18.79.040	AMD	13	1
18.79.060	AMD	13	2
18.79.260	AMD	10	37
18.79.260	AMD	13	3
18.79.260	AMD	164	407
18.79.270	AMD	13	4
18.79.340	AMD	153	13
18.85.151	AMD	126	1
18.86.120	AMD	185	2
18.88A	ADD	208	3
18.88A.020	REMD	208	2
18.88A.040	AMD	208	4
18.88A.050	AMD	208	5
18.88A.060	AMD	208	6
18.88A.120	AMD	208	7
18.88A.130	AMD	208	8
18.88A.150	AMD	208	9
18.88B	ADD	1	103-105
18.88B	ADD	164	303,406
			501
18.88B.010	AMD	164	201
18.88B.020	REP	1	115
18.88B.021	AMD	164	301
18.88B.030	REP	1	115
18.88B.031	AMD	164	304
18.88B.040	REP	1	115
18.88B.041	AMD	164	302
18.88B.050	AMD	164	601
18.100.140	AMD	10	38
18.108	ADD	137	12
			15,16
18.108.005	AMD	137	2
18.108.010	AMD	137	3
18.108.025	AMD	137	4
18.108.030	AMD	137	5
18.108.040	AMD	137	6
18.108.045	AMD	137	7
18.108.050	AMD	137	8
18.108.060	AMD	137	9
18.108.070	AMD	137	10
18.108.073	AMD	137	11
18.108.076	REP	137	17
18.108.085	AMD	137	14
18.108.095	AMD	137	13
18.108.130	REP	137	17
18.120.020	AMD	23	8
18.120.020	AMD	137	18
18.120.020	AMD	153	14
18.120.020	AMD	153	15
18.130.040	AMD	23	6
18.130.040	AMD	137	19
18.130.040	AMD	153	16
18.130.040	AMD	153	17
18.130.040	AMD	208	10
18.135.010	REP	153	20
18.135.020	REP	153	20
18.135.025	REP	153	20
18.135.030	REP	153	20
18.135.035	REP	153	20
18.135.040	REP	153	20
18.135.050	REP	153	20
18.135.055	AMD	153	18
18.135.055	REP	153	20
18.135.060	REP	153	20
18.135.062	REP	153	20
18.135.065	REP	153	20
18.135.070	REP	153	20
18.135.090	REP	153	20
18.135.100	REP	153	20
18.135.110	REP	153	20
18.135.120	REP	153	20
18.165.030	AMD	118	1
18.170.030	AMD	118	2
18.225	ADD	58	1
18.260.110	AMD	229	502
19.27.530	AMD	132	4
19.28	ADD	32	1
19.28.181	AMD	32	2
19.28.211	AMD	32	3
19.29A.090	REMD	112	1
19.30.030	REEN	158	1
19.94.505	REP	25	7
19.100.010	AMD	121	1
19.100.020	AMD	121	2
19.100.030	AMD	121	3
19.100.040	AMD	121	4
19.100.070	AMD	121	5
19.100.080	AMD	121	6
19.100.090	AMD	121	7
19.100.130	AMD	121	9
19.100.184	AMD	121	8
19.100.248	AMD	121	10
19.122.130	AMD	96	1
19.126.010	AMD	2	212
19.126.020	REMD	2	213
19.126.040	AMD	2	214
19.144.020	AMD	17	18
19.146	ADD	17	13
19.146.200	AMD	17	12
19.182.110	AMD	41	4

RCW SECTIONS AFFECTED BY 2012 STATUTES

RCW		CH.		SEC.
19.230	ADD	17		16,17
19.230	ADD	56		3,4
19.285	ADD	254		1
19.285.030	AMD	22		2
19.285.040	AMD	22		3
19.310.040	AMD	34		2
19.310.120	AMD	34		4
19.310.150	AMD	34		5
22.09.050	AMD	123		1
22.09.055	AMD	123		2
22.09.830	REMD	25		4
23B	ADD	215		1-16
23B.01.400	AMD	215		17
23B.04.010	AMD	215		18
24.06.032	AMD	216		1
26.04	ADD	3		7,11
26.04.010	AMD	3		1
26.04.020	AMD	3		2
26.04.050	AMD	3		4
26.04.060	AMD	3		5
26.04.070	AMD	3		6
26.09.013	AMD	223		5
26.12	ADD	223		8
26.23.040	AMD	109		1
26.33	ADD	3		14
26.44	ADD	259		2,6,14
26.44.010	AMD	259		12
26.44.020	REMD	259		1
26.44.030	AMD	55		1
26.44.030	AMD	259		3
26.44.031	AMD	259		4
26.44.050	AMD	259		5
26.44.125	AMD	259		11
26.50	ADD	223		9,10
26.60	ADD	3		10
26.60.010	AMD	3		8
26.60.030	AMD	3		9
26.60.090	AMD	3		12
28A.150.315	AMD	51		1
28A.150.380	REMD	10	E1	3
28A.150.510	AMD	163		9
28A.175.130	AMD	229		503
28A.175.135	AMD	229		601
28A.210.260	AMD	16		1
28A.210.270	AMD	16		2
28A.225.030	AMD	157		1
28A.225.035	AMD	157		2
28A.230.100	REMD	229		504
28A.300	ADD	163		10
28A.300	ADD	178		2
28A.300	ADD	245		1
28A.300.440	AMD	198		5
28A.300.445	REP	198		26
28A.300.525	AMD	163		11
28A.305	ADD	210		1
28A.305.140	AMD	53		8
28A.315	ADD	186		5,8,10
				14,25
28A.315.025	AMD	186		1
28A.315.065	AMD	186		2
28A.315.095	AMD	186		3
28A.315.195	AMD	186		4
28A.315.205	AMD	186		6
28A.315.215	AMD	186		7
28A.315.225	AMD	186		9
28A.315.265	AMD	186		11
28A.315.285	AMD	186		12
28A.315.305	AMD	186		13
28A.315.315	AMD	186		15
28A.320	ADD	163		7
28A.330.080	AMD	209		1
28A.330.230	AMD	209		2
28A.343.040	AMD	186		16
28A.400.275	AMD	3	E2	4
28A.400.280	AMD	3	E2	2
28A.400.300	AMD	186		20
28A.400.350	AMD	3	E2	3
28A.405	ADD	35		5
28A.405	ADD	186		21
28A.405.100	AMD	35		1
28A.405.120	AMD	35		2
28A.405.130	AMD	35		3
28A.405.220	AMD	35		7
28A.410	ADD	35		4
28A.410	ADD	53		11
28A.415.023	AMD	35		6
28A.505.210	REP	10	E1	9
28A.505.220	REP	10	E1	9
28A.525.162	AMD	244		2
28A.525.166	REMD	244		3
28A.600.200	AMD	155		2
28A.600.205	AMD	155		3
28A.600.280	AMD	229		505
28A.600.290	AMD	229		801
28A.600.310	AMD	229		702
28A.600.390	AMD	229		506
28A.600.405	AMD	10	E1	4
28A.630	ADD	53		2-7
28A.630	ADD	151		2
28A.630.065	AMD	151		1

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RCW		CH.		SEC.
28A.645.010	AMD	186		22
28A.655	ADD	51		2
28A.655.180	AMD	53		9
28A.657.050	AMD	53		10
28A.660	ADD	53		12
28A.660.050	AMD	229		507
28A.700.020	AMD	229		802
28A.700.060	AMD	229		803
28B	ADD	242		1,2
28B.07.040	AMD	229		508
28B.10	ADD	55		2
28B.10	ADD	231		1
28B.10.020	AMD	229		509
28B.10.029	REMD	230		4
28B.10.053	AMD	229		510
28B.10.118	AMD	229		511
28B.10.125	DECD	229		906
28B.10.400	AMD	229		512
28B.10.405	AMD	229		513
28B.10.410	AMD	229		514
28B.10.415	AMD	229		515
28B.10.423	AMD	229		516
28B.10.569	REP	227		2
28B.10.682	REP	229		902
28B.10.784	AMD	229		517
28B.10.790	AMD	229		518
28B.12.030	AMD	229		519
28B.12.040	AMD	229		520
28B.12.070	AMD	229		602
28B.15.012	AMD	229		521
28B.15.013	AMD	229		522
28B.15.015	AMD	229		523
28B.15.031	REMD	230		6
28B.15.045	AMD	104		2
28B.15.067	AMD	7	E2	914
28B.15.067	AMD	228		6
28B.15.068	AMD	229		524
28B.15.068	AMD	229		525
28B.15.069	AMD	229		701
28B.15.102	AMD	229		526
28B.15.380	AMD	229		703
28B.15.460	AMD	229		527
28B.15.730	AMD	229		704
28B.15.732	REP	229		902
28B.15.734	AMD	229		705
28B.15.750	AMD	229		706
28B.15.752	REP	229		902
28B.15.756	AMD	229		707
28B.15.760	REMD	229		528
28B.15.762	AMD	229		529
28B.15.764	AMD	229		603
28B.15.796	REP	229		902
28B.20.105	AMD	228		1
28B.20.130	AMD	229		804
28B.20.280	REP	229		902
28B.20.308	AMD	229		806
28B.20.478	AMD	229		807
28B.30.120	AMD	228		2
28B.30.150	AMD	229		805
28B.30.500	REP	229		902
28B.30.515	AMD	229		530
28B.30.530	AMD	229		808
28B.35.110	AMD	228		3
28B.35.120	AMD	229		809
28B.35.202	AMD	229		810
28B.35.205	AMD	229		811
28B.35.215	AMD	229		812
28B.40.110	AMD	228		4
28B.40.120	AMD	229		813
28B.40.206	AMD	229		814
28B.45.014	AMD	229		531
28B.45.020	AMD	229		532
28B.45.030	AMD	229		533
28B.45.040	AMD	229		534
28B.45.060	AMD	229		815
28B.45.080	AMD	229		535
28B.50	ADD	50		2
28B.50	ADD	148		3
28B.50.030	REMD	229		536
28B.50.100	AMD	148		2
28B.50.100	AMD	228		5
28B.50.140	AMD	229		537
28B.50.810	AMD	229		816
28B.50.820	AMD	229		538
28B.57.050	REP	198		26
28B.65.040	AMD	229		539
28B.65.050	AMD	229		540
28B.67.020	AMD	46		1
28B.67.030	AMD	46		2
28B.67.902	AMD	46		4
28B.76	ADD	31		1
28B.76.090	AMD	229		401
28B.76.110	AMD	229		109
28B.76.110	RECD	229		904
28B.76.210	AMD	229		110
28B.76.210	RECD	229		904
28B.76.230	AMD	229		111
28B.76.230	RECD	229		904
28B.76.235	AMD	229		112
28B.76.235	RECD	229		904

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RCW		CH.	SEC.
28B.76.240	AMD	229	113
28B.76.240	RECD	229	904
28B.76.2401	REMD	229	114
28B.76.2401	RECD	229	904
28B.76.250	AMD	229	541
28B.76.250	RECD	229	904
28B.76.270	AMD	229	115
28B.76.270	RECD	229	904
28B.76.280	AMD	229	302
28B.76.280	RECD	229	904
28B.76.290	REP	229	120
28B.76.310	AMD	229	303
28B.76.310	RECD	229	905
28B.76.325	AMD	229	116
28B.76.325	RECD	229	904
28B.76.505	AMD	229	604
28B.76.510	AMD	229	117
28B.76.510	RECD	229	904
28B.76.695	AMD	229	118
28B.76.695	RECD	229	904
28B.77	ADD	229	1
			102-108
			121,904
28B.77.005	AMD	229	101
28B.85.010	AMD	229	542
28B.85.020	AMD	229	543
28B.85.030	AMD	229	544
28B.85.040	AMD	229	545
28B.85.050	AMD	229	546
28B.85.060	AMD	229	547
28B.85.070	AMD	229	548
28B.85.080	AMD	229	549
28B.85.090	AMD	229	550
28B.85.100	AMD	229	551
28B.85.130	AMD	229	552
28B.85.170	AMD	229	553
28B.90.010	AMD	229	554
28B.90.020	AMD	229	555
28B.90.030	AMD	229	556
28B.92.030	AMD	229	557
28B.92.060	REMD	229	558
28B.92.070	AMD	229	559
28B.92.080	AMD	229	605
28B.92.082	AMD	229	560
28B.95.020	AMD	229	606
28B.95.150	AMD	198	16
28B.97.020	AMD	229	561
28B.102.020	REMD	229	562
28B.102.030	AMD	229	563
28B.103.030	AMD	229	607
28B.108.020	AMD	229	608
28B.108.040	AMD	229	564
28B.108.060	AMD	187	2
28B.108.060	AMD	187	3
28B.109.010	AMD	229	565
28B.109.020	AMD	198	22
28B.109.040	AMD	198	23
28B.109.050	REP	198	26
28B.109.060	REP	198	26
28B.110.030	AMD	229	566
28B.110.040	AMD	229	567
28B.116.010	REMD	229	568
28B.116.030	AMD	229	569
28B.116.060	AMD	187	4
28B.116.060	AMD	187	5
28B.117.010	AMD	163	2
28B.117.020	AMD	163	3
28B.117.030	AMD	229	609
28B.117.040	AMD	163	4
28B.117.070	AMD	163	5
28B.117.901	AMD	163	13
28B.118.010	AMD	163	8
28B.118.010	AMD	229	402
28B.120.010	AMD	229	571
28B.120.020	AMD	229	572
28B.120.025	AMD	229	573
28B.120.030	AMD	229	574
28B.120.040	AMD	229	575
28B.122.010	AMD	50	4
28B.122.020	AMD	50	5
28B.122.040	AMD	50	6
28B.122.050	AMD	50	7
28B.122.060	AMD	50	8
28B.133.030	AMD	198	24
28C.10.030	AMD	229	576
28C.10.040	AMD	229	577
28C.18	ADD	33	2
28C.18	ADD	50	3
28C.18.030	AMD	229	578
28C.18.060	AMD	229	579
29A.24.311	AMD	89	2
29A.52	ADD	89	3
29A.60.021	AMD	89	4
29A.80.051	AMD	89	5
31.04.025	REMD	17	1
31.04.027	AMD	17	2
31.04.065	AMD	17	3
31.04.093	AMD	17	4
31.04.145	AMD	17	5
31.04.224	AMD	17	6

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RCW		CH.		SEC.
31.45	ADD	17		8
31.45.010	AMD	17		7
31.45.070	AMD	17		9
31.45.105	AMD	17		10
31.45.110	AMD	17		11
34.05.320	AMD	210		2
34.05.422	AMD	39		6
35.13	ADD	47		1
35.20.220	AMD	134		9
35.20.220	AMD	136		7
35.21.278	AMD	218		1
35.21.687	REP	5	E1	5
35.21.766	AMD	10		39
35.22.620	AMD	5	E1	1
35.27.130	AMD	240		1
35.57	ADD	4		1,3
35.58.580	AMD	68		1
35.75.060	AMD	67		2
35.78	ADD	67		3
35.78.030	AMD	67		4
35.104.020	AMD	229		580
35.104.040	AMD	229		581
35A.70.020	AMD	10		40
36.18.018	AMD	199		2
36.18.020	AMD	199		3
36.22.179	AMD	90		1
36.27.020	AMD	5	E1	2
36.34.137	REP	5	E1	5
36.38.010	AMD	260		1
36.54	ADD	78		1
36.57A.230	AMD	68		2
36.70A	ADD	191		2
36.70A.030	REMD	21		1
36.70A.130	REMD	191		1
36.70A.180	AMD	5	E1	3
36.70A.490	AMD	1	E1	309
36.70A.500	AMD	1	E1	310
36.73	ADD	152		2
36.73.015	REMD	152		1
36.73.065	AMD	152		3
36.82	ADD	67		6
36.82.145	AMD	67		5
36.93.150	AMD	212		1
36.100	ADD	4		2,4
37.12	ADD	48		1-3
38.12.180	AMD	12		2
38.16.015	AMD	12		1
38.42.010	AMD	24		1
38.42.050	AMD	24		2
38.52.106	REP	198		26
38.52.430	AMD	183		6
38.52.540	AMD	7	E2	915
39	ADD	193		1-15
39	ADD	224		1-24
39.10.420	AMD	102		1
39.10.450	AMD	102		2
39.10.460	AMD	102		3
39.12.040	AMD	129		1
39.29.003	REP	224		29
39.29.006	REP	224		29
39.29.008	REP	224		29
39.29.009	REP	224		29
39.29.011	REP	224		29
39.29.016	REP	224		29
39.29.018	REP	224		29
39.29.020	REP	224		29
39.29.025	REP	224		29
39.29.040	REP	224		29
39.29.050	REP	224		29
39.29.052	RECD	224		28
39.29.055	REP	224		29
39.29.065	REP	224		29
39.29.068	REP	224		29
39.29.075	REP	224		29
39.29.080	REP	224		29
39.29.090	REP	224		29
39.29.100	REP	224		29
39.29.110	REP	224		29
39.29.120	REP	224		29
39.29.130	REP	224		29
39.29.900	REP	224		29
39.58.240	AMD	26		1
39.64.040	AMD	186		19
41.04	ADD	87		19
41.04	ADD	236		7
41.04.120	AMD	117		5
41.04.233	AMD	117		6
41.04.240	AMD	230		3
41.04.395	REP	198		26
41.04.510	AMD	117		7
41.05	ADD	3	E2	6
41.05.011	REMD	87		22
41.05.021	AMD	87		23
41.05.140	AMD	187		10
41.06.073	AMD	117		8
41.06.075	AMD	117		9
41.06.120	AMD	117		10
41.06.560	AMD	7	E2	916
41.14.030	AMD	117		11
41.14.060	AMD	117		12

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RCW		CH.	SEC.
41.14.090	AMD	117	13
41.14.110	AMD	117	14
41.14.120	AMD	117	15
41.14.180	AMD	117	16
41.14.250	AMD	117	17
41.14.260	AMD	117	18
41.14.270	AMD	117	19
41.20.010	AMD	117	20
41.20.020	AMD	117	21
41.20.050	AMD	117	22
41.20.060	AMD	117	23
41.20.065	AMD	117	24
41.20.070	AMD	117	25
41.20.080	AMD	117	26
41.20.085	AMD	117	27
41.20.090	AMD	117	28
41.20.100	AMD	117	29
41.20.110	AMD	117	30
41.20.120	AMD	117	31
41.20.150	AMD	117	32
41.20.155	AMD	117	33
41.20.160	AMD	117	34
41.20.170	AMD	117	35
41.20.175	AMD	117	36
41.20.180	AMD	159	19
41.24	ADD	239	1
41.24.100	AMD	117	37
41.24.260	AMD	117	38
41.26.030	AMD	236	2
41.26.040	AMD	117	39
41.26.045	AMD	117	40
41.26.046	AMD	117	41
41.26.047	AMD	117	42
41.26.053	REMD	159	21
41.26.435	AMD	248	1
41.28.010	AMD	117	43
41.28.030	AMD	117	44
41.28.040	AMD	117	45
41.28.050	AMD	117	46
41.28.080	AMD	117	47
41.28.110	AMD	117	48
41.28.120	AMD	117	49
41.28.130	AMD	117	50
41.28.140	AMD	117	51
41.28.150	AMD	117	52
41.28.160	AMD	117	53
41.28.170	AMD	117	54
41.28.180	AMD	117	55
41.28.200	AMD	159	22
41.32.010	AMD	236	3
41.32.044	AMD	117	56
41.32.052	REMD	159	20
41.32.497	AMD	117	57
41.32.765	AMD	7 E1	1
41.32.875	AMD	7 E1	2
41.33.020	AMD	117	58
41.34.080	AMD	159	23
41.35.010	REMD	236	4
41.35.100	AMD	159	24
41.35.420	AMD	7 E1	3
41.35.680	AMD	7 E1	4
41.37.010	REMD	236	5
41.37.090	AMD	159	25
41.40	ADD	72	1
41.40.010	AMD	236	6
41.40.052	AMD	159	26
41.40.210	AMD	117	59
41.40.630	AMD	7 E1	5
41.40.820	AMD	7 E1	6
41.41.020	AMD	117	60
41.44.030	AMD	117	61
41.44.070	AMD	117	62
41.44.080	AMD	117	63
41.44.110	AMD	117	64
41.44.120	AMD	117	65
41.44.130	AMD	117	66
41.44.140	AMD	117	67
41.44.150	AMD	117	68
41.44.160	AMD	117	69
41.44.170	AMD	117	70
41.44.180	AMD	117	71
41.44.190	AMD	117	72
41.44.200	AMD	117	73
41.44.210	AMD	117	74
41.44.220	AMD	117	75
41.44.240	AMD	159	27
41.44.250	AMD	117	76
41.45.035	AMD	7 E1	7
41.45.230	AMD	187	11
41.45.233	REP	187	17
41.48.020	AMD	117	77
41.48.040	AMD	117	78
41.48.050	AMD	117	79
41.48.090	AMD	117	80
41.48.100	AMD	117	81
41.50.020	AMD	117	82
41.56	ADD	186	23
41.56	ADD	255	1
41.56.070	REMD	117	83
41.56.080	AMD	117	84

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RCW		CH.	SEC.
41.56.120	AMD	117	85
41.56.220	AMD	117	86
41.56.450	AMD	117	87
41.56.470	AMD	117	88
41.58.010	AMD	117	89
41.58.801	AMD	117	90
41.59	ADD	186	24
41.59.090	AMD	117	91
41.59.120	AMD	117	92
41.59.140	AMD	117	93
42.04.020	AMD	117	94
42.08.020	AMD	117	95
42.08.030	AMD	117	96
42.08.050	AMD	117	97
42.08.090	AMD	117	98
42.08.100	AMD	117	99
42.08.110	AMD	117	100
42.08.120	AMD	117	101
42.08.130	AMD	117	102
42.08.140	AMD	117	103
42.08.160	AMD	117	104
42.12.030	AMD	117	105
42.14.010	AMD	117	106
42.14.030	AMD	117	107
42.14.060	AMD	117	108
42.16.011	AMD	198	20
42.16.012	AMD	198	21
42.16.013	AMD	117	109
42.16.014	AMD	117	110
42.16.016	REP	198	26
42.16.020	AMD	117	111
42.16.040	AMD	117	112
42.17A.320	AMD	226	1
42.17A.405	REMD	202	1
42.17A.705	AMD	229	582
42.20.020	AMD	117	113
42.20.030	AMD	117	114
42.20.050	AMD	117	115
42.20.080	AMD	117	116
42.20.110	AMD	117	117
42.24.110	AMD	117	118
42.24.140	AMD	117	119
42.24.150	AMD	117	120
42.24.160	AMD	117	121
42.26.010	REP	198	26
42.26.050	AMD	117	122
42.26.070	AMD	117	123
42.30.040	AMD	117	124
42.30.080	AMD	188	1
42.30.090	AMD	117	125
42.30.120	AMD	117	126
42.56.040	AMD	117	127
42.56.240	REMD	88	1
42.56.330	AMD	68	4
42.56.370	AMD	29	13
42.56.380	AMD	168	1
42.56.400	AMD	3 E2	8
42.56.400	AMD	222	2
43	ADD	1 E2	201-205
43	ADD	122	1-6
43	ADD	232	1-5
43.01	ADD	87	20
43.03	ADD	87	21
43.06.115	AMD	229	583
43.07.129	AMD	7 E2	917
43.09.440	AMD	229	817
43.17	ADD	127	1
43.19.005	AMD	224	25
43.19.180	REP	224	29
43.19.185	REP	224	29
43.19.190	REP	224	29
43.19.1901	REP	224	29
43.19.1905	REP	224	29
43.19.19052	REP	224	29
43.19.19054	AMD	2	201
43.19.1906	REP	224	29
43.19.1908	REP	224	29
43.19.1911	REP	224	29
43.19.1913	REP	224	29
43.19.1914	REP	224	29
43.19.1915	REP	224	29
43.19.1932	RECD	224	28
43.19.1937	REP	224	29
43.19.1939	REP	224	29
43.19.200	REP	224	29
43.19.530	RECD	224	28
43.19.534	REMD	220	1
43.19.534	RECD	224	28
43.19.535	RECD	224	28
43.19.536	RECD	224	28
43.19.538	RECD	224	28
43.19.539	RECD	224	28
43.19.642	AMD	86	802
43.19.648	AMD	171	1
43.19.700	RECD	224	28
43.19.702	RECD	224	28
43.19.704	RECD	224	28
43.19.725	AMD	224	26
43.19.727	AMD	224	27
43.19.797	RECD	224	28

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RCW		CH.		SEC.
43.19.797	AMD	229		584
43.20A.710	AMD	164		505
43.20B.030	AMD	258		1
43.21C	ADD	1	E1	213,303
				307,308
43.21C	ADD	247		1
43.21C.031	AMD	1	E1	302
43.21C.095	AMD	1	E1	312
43.21C.110	AMD	1	E1	311
43.21C.229	AMD	1	E1	304
43.21K.170	REP	198		26
43.24.130	AMD	45		1
43.30	ADD	1	E1	208
43.30.385	REMD	166		8
43.30.720	AMD	7	E2	918
43.30.810	AMD	243		2
43.30.820	AMD	243		1
43.31A.400	AMD	198		25
43.32.020	AMD	67		7
43.33A.010	AMD	187		1
43.33A.150	AMD	231		2
43.33A.230	REP	187		17
43.41	ADD	229		301,304
				905
43.41.400	AMD	229		585
43.41A.100	AMD	229		586
43.42	ADD	196		8
43.42.010	AMD	196		1
43.42.050	AMD	196		2
43.42.060	REMD	196		3
43.42.070	AMD	196		4
43.42.095	AMD	196		5
43.43	ADD	183		15
43.43.310	AMD	159		28
43.43.395	AMD	183		16
43.43.565	REP	125		6
43.43.565	REP	198		26
43.43.730	AMD	125		4
43.43.830	REMD	44		1
43.43.832	AMD	10		41
43.43.832	AMD	44		2
43.43.8321	AMD	125		5
43.43.837	AMD	164		506
43.43.866	REP	198		26
43.43.934	AMD	229		818
43.43.938	AMD	229		819
43.43.944	AMD	173		1
43.60A.151	AMD	229		820
43.63A.190	AMD	5	E2	12
43.63A.760	REP	198		26
43.70	ADD	181		2
43.70.052	AMD	98		1
43.70.235	AMD	211		14
43.70.270	AMD	45		2
43.70.730	RECD	197		4
43.70.731	RECD	197		4
43.70.732	RECD	197		4
43.70.733	AMD	197		1
43.70.733	RECD	197		4
43.70.734	RECD	197		4
43.70.735	RECD	197		4
43.70.736	RECD	197		4
43.70.737	RECD	197		4
43.71	ADD	87		8,9,25
43.71.010	AMD	87		2
43.71.020	AMD	87		3
43.71.030	AMD	87		4
43.71.060	AMD	87		5
43.72.904	REP	198		26
43.79.485	REP	198		26
43.79.495	AMD	187		6
43.79A	ADD	187		12
43.79A.040	AMD	114		3
43.79A.040	AMD	187		13
43.79A.040	AMD	196		6
43.79A.040	AMD	198		8
43.84.092	REMD	36		5
43.84.092	REMD	83		4
43.84.092	REMD	187		14
43.84.092	REMD	196		7
43.84.092	REMD	198		2
43.84.150	AMD	187		15
43.88	ADD	8	E1	1
43.88.090	AMD	229		587
43.88.150	AMD	230		7
43.88.160	AMD	230		1
43.88.230	AMD	113		7
43.88.230	AMD	229		205
43.88C.010	AMD	217		3
43.88D.005	REP	229		902
43.88D.010	AMD	229		821
43.99G.020	AMD	198		4
43.99I.020	AMD	198		13
43.99Q.130	AMD	198		14
43.105.825	AMD	229		588
43.110.030	AMD	5	E2	5
43.110.050	REP	5	E2	6
43.110.060	REP	5	E2	6
43.131	ADD	204		4,5
43.131	ADD	241		216,217

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RCW		CH.		SEC.
43.131	ADD	242		3,4
43.131.408	AMD	102		4
43.135	ADD	204		3
43.135.045	AMD	5	E2	1
43.135.045	AMD	10	E1	5
43.155.050	AMD	2	E2	6004
43.155.055	REP	198		26
43.155.070	AMD	196		9
43.155.100	REP	198		26
43.157.010	REMD	63		2
43.160.010	AMD	225		2
43.160.020	AMD	225		3
43.160.060	AMD	196		10
43.162.020	AMD	195		3
43.176.040	REP	198		26
43.180	ADD	63		3
43.185.070	REMD	235		1
43.185A.050	AMD	235		2
43.185C	ADD	90		2
43.200	ADD	19		14
43.200.015	AMD	19		1
43.200.080	AMD	19		2
43.200.170	AMD	19		3
43.200.180	AMD	19		4
43.200.190	AMD	19		5
43.200.200	AMD	19		6
43.200.210	REP	19		16
43.200.230	AMD	19		7
43.211.050	REP	198		26
43.215	ADD	149		2
43.215	ADD	251		2
43.215.090	AMD	229		589
43.215.135	AMD	251		1
43.215.135	AMD	253		5
43.235.040	AMD	223		6
43.235.050	AMD	223		7
43.280.010	AMD	29		1
43.280.011	AMD	29		2
43.280.020	AMD	29		3
43.280.030	REP	29		14
43.280.050	AMD	29		4
43.280.060	AMD	29		5
43.280.070	AMD	29		6
43.280.080	AMD	29		7
43.280.081	REP	29		14
43.280.090	AMD	29		8
43.330	ADD	197		4
43.330.080	AMD	195		1
43.330.082	AMD	195		2
43.330.090	AMD	198		3
43.330.092	REP	198		26
43.330.270	AMD	225		1
43.330.280	REMD	229		708
43.330.310	AMD	198		12
43.330.310	AMD	229		590
43.330.375	AMD	229		591
43.330.906	REP	197		3
43.333	ADD	63		4
43.340.120	REP	198		26
43.365.010	REMD	189		1
43.365.020	AMD	189		2
43.365.030	AMD	189		3
43.365.040	AMD	189		5
43.372.020	AMD	252		1
43.372.030	AMD	252		2
43.372.040	AMD	252		3
43.372.070	AMD	252		4
44	ADD	113		1-5
44.04	ADD	229		201-203
44.04.260	AMD	113		6
44.04.260	AMD	229		204
44.28	ADD	3	E2	7
46.01	ADD	261		11
46.01.140	AMD	261		10
46.04	ADD	65		2,3
46.04	ADD	80		3
46.04.181	AMD	130		1
46.10.420	AMD	74		13
46.12.630	AMD	86		803
46.12.675	AMD	74		14
46.16A.090	AMD	261		9
46.16A.120	REMD	83		5
46.16A.215	AMD	69		2
46.16A.320	AMD	74		15
46.17	ADD	74		10
46.17.100	AMD	74		1
46.17.140	AMD	74		2
46.17.200	AMD	74		3
46.17.220	REMD	65		4
46.18.060	REMD	65		6
46.18.200	REMD	65		1
46.18.295	AMD	69		1
46.19.020	AMD	10		42
46.19.060	AMD	71		1
46.20	ADD	80		2
46.20	ADD	82		4
46.20.037	AMD	80		1
46.20.038	REP	80		4
46.20.049	AMD	80		11
46.20.055	AMD	80		5

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RCW		CH.	SEC.
46.20.117	AMD	80	6
46.20.120	AMD	80	7
46.20.161	AMD	80	8
46.20.181	AMD	80	9
46.20.200	AMD	80	10
46.20.289	AMD	82	3
46.20.293	AMD	74	4
46.20.308	AMD	80	12
46.20.308	AMD	183	7
46.20.385	AMD	183	8
46.20.391	AMD	82	2
46.20.505	AMD	80	13
46.20.720	AMD	183	9
46.20.745	AMD	183	10
46.21.030	AMD	117	128
46.23.020	AMD	117	129
46.29.050	AMD	74	5
46.32.100	AMD	70	1
46.37.420	AMD	75	1
46.44.030	AMD	79	1
46.44.0915	AMD	86	804
46.52.130	AMD	73	1
46.52.130	AMD	74	6
46.55.035	AMD	18	1
46.61.500	REMD	183	11
46.61.5055	REMD	28	1
46.61.5055	REMD	42	2
46.61.5055	REMD	183	12
46.61.507	AMD	42	1
46.61.5249	AMD	183	13
46.61.540	AMD	183	14
46.63.075	AMD	83	6
46.63.110	AMD	82	1
46.63.170	AMD	83	7
46.63.170	AMD	85	3
46.64.025	AMD	82	5
46.68	ADD	74	9
46.68.420	REMD	65	5
46.70.061	AMD	74	7
46.70.180	AMD	74	8
46.71.025	AMD	27	1
47.01	ADD	66	1
47.01.300	AMD	62	1
47.36	ADD	85	2
47.46.060	AMD	77	1
47.56	ADD	36	2-4
47.56	ADD	83	2,3
47.56.810	REMD	36	6
47.76	ADD	86	801
47.80.090	AMD	229	592
48	ADD	108	1-4
48.01.280	AMD	93	1
48.02	ADD	3 E2	5
48.02	ADD	150	1
48.05.440	AMD	211	2
48.06.040	AMD	211	3
48.17	ADD	154	6
48.17.010	AMD	211	4
48.17.170	REMD	154	5
48.17.380	AMD	211	12
48.18	ADD	222	3
48.19.040	AMD	222	1
48.19.450	REP	211	13
48.20.435	AMD	211	15
48.38.010	AMD	211	5
48.38.020	AMD	211	6
48.38.050	AMD	211	7
48.41	ADD	87	17,18
48.41.110	AMD	211	25
48.42.010	AMD	87	10
48.42.020	AMD	87	11
48.43	ADD	87	6,7
			12,13
			16
48.43.005	REMD	87	1
48.43.005	REMD	211	17
48.43.015	AMD	64	2
48.43.018	AMD	64	1
48.43.018	AMD	211	16
48.43.081	AMD	100	1
48.43.125	AMD	10	43
48.43.310	AMD	211	8
48.43.510	AMD	211	26
48.43.530	AMD	211	20
48.43.535	AMD	211	21
48.44.215	AMD	211	18
48.46.020	REMD	211	22
48.46.030	AMD	211	23
48.46.040	AMD	211	24
48.46.325	AMD	211	19
48.62	ADD	3 E2	9
48.85.010	AMD	211	9
48.85.020	AMD	211	10
48.120.005	AMD	154	1
48.120.010	AMD	154	2
48.120.015	AMD	154	3
48.120.020	AMD	154	4
48.125.050	AMD	211	11
48.150.120	REP	207	1
49.32.072	AMD	117	130

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RCW		CH.		SEC.
50.04.070	AMD	198		9
50.04.072	AMD	198		10
50.12.280	REP	198		26
50.16.010	AMD	198		11
50.16.015	REP	198		26
50.20.250	AMD	40		2
50.29.062	AMD	2	E1	1
50.62.030	AMD	40		4
52.12.160	AMD	14		1
52.14.010	AMD	174		1
52.14.013	AMD	174		3
52.14.015	AMD	174		4
52.14.017	AMD	174		5
52.14.020	AMD	174		2
54.16	ADD	246		1
58.17.140	AMD	92		1
58.17.170	AMD	92		2
59.18.030	AMD	41		2
59.18.257	AMD	41		3
59.20.060	AMD	213		1
59.20.070	AMD	213		2
59.20.073	AMD	213		3
59.20.080	AMD	213		4
59.20.200	AMD	213		5
59.22.020	AMD	198		17
59.22.030	REP	198		26
59.22.032	AMD	198		18
59.22.034	AMD	198		19
59.30.020	REMD	213		6
60.08.020	AMD	117		131
60.08.060	AMD	117		132
60.10.070	AMD	117		133
60.13	ADD	106		2,4
60.13.010	AMD	106		1
60.13.040	AMD	106		3
60.13.060	AMD	106		5
60.13.070	AMD	106		6
60.16.010	AMD	117		134
60.24.020	AMD	117		135
60.24.030	AMD	117		136
60.24.035	AMD	117		137
60.24.075	AMD	117		138
60.24.100	AMD	117		139
60.24.130	AMD	117		140
60.24.140	AMD	117		141
60.24.150	AMD	117		142
60.24.170	AMD	117		143
60.24.190	AMD	117		144
60.24.200	AMD	117		145
60.28.030	AMD	117		146
60.28.060	AMD	117		147
60.32.010	AMD	117		148
60.32.020	AMD	117		149
60.34.010	AMD	117		150
60.34.020	AMD	117		151
60.40.020	AMD	117		152
60.44.060	AMD	117		153
60.52.010	AMD	117		154
60.56.005	AMD	117		155
60.60.040	AMD	117		156
60.66.020	AMD	117		157
60.76.010	AMD	117		158
60.76.020	AMD	117		159
61.12.040	AMD	117		160
61.12.090	AMD	117		161
61.12.093	AMD	117		162
61.12.094	AMD	117		163
61.12.120	AMD	117		164
61.24	ADD	185		11
61.24.010	AMD	185		13
61.24.030	AMD	185		9
61.24.031	AMD	185		4
61.24.040	AMD	185		10
61.24.050	AMD	185		14
61.24.160	AMD	185		5
61.24.163	AMD	185		6
61.24.169	AMD	185		7
61.24.172	AMD	185		12
61.24.174	AMD	185		8
62A.1	ADD	214		115-124
62A.7	ADD	214		206
62A.1-101	AMD	214		101
62A.1-102	AMD	214		102
62A.1-103	AMD	214		103
62A.1-104	AMD	214		104
62A.1-105	AMD	214		105
62A.1-106	AMD	214		106
62A.1-107	AMD	214		107
62A.1-108	AMD	214		108
62A.1-109	REP	214		1601
62A.1-201	AMD	214		109
62A.1-202	AMD	214		110
62A.1-203	AMD	214		111
62A.1-204	AMD	214		112
62A.1-205	AMD	214		113
62A.1-206	AMD	214		114
62A.1-207	REP	214		1601
62A.1-208	REP	214		1601
62A.10-104	REP	214		1601
62A.2-103	AMD	214		801

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RCW		CH.	SEC.
62A.2-104	AMD	214	802
62A.2-202	AMD	214	803
62A.2-208	REP	214	1601
62A.2-310	AMD	214	804
62A.2-323	AMD	214	805
62A.2-401	AMD	214	806
62A.2-503	AMD	214	807
62A.2-505	AMD	214	808
62A.2-506	AMD	214	809
62A.2-509	AMD	214	810
62A.2-512	AMD	214	1715
62A.2-605	AMD	214	811
62A.2-705	AMD	214	812
62A.2A-103	AMD	214	901,902
62A.2A-207	REP	214	1601
62A.2A-501	AMD	214	903
62A.2A-514	AMD	214	904
62A.2A-518	AMD	214	905
62A.2A-519	AMD	214	906
62A.2A-526	AMD	214	907
62A.2A-527	AMD	214	908
62A.2A-528	AMD	214	909
62A.3-103	AMD	214	1001
62A.4-104	AMD	214	1101
62A.4-210	AMD	214	1102
62A.4A-105	AMD	214	1201
62A.4A-106	AMD	214	1202
62A.4A-204	AMD	214	1203
62A.5-102	AMD	214	1701
62A.5-103	AMD	214	1301
62A.5-104	AMD	214	1702
62A.5-106	AMD	214	1703
62A.5-107	AMD	214	1704
62A.5-108	AMD	214	1705
62A.5-109	AMD	214	1706
62A.5-110	AMD	214	1707
62A.5-111	AMD	214	1708
62A.5-112	AMD	214	1709
62A.5-113	AMD	214	1710
62A.5-114	AMD	214	1711
62A.5-116	AMD	214	1712
62A.5-117	AMD	214	1713
62A.5-118	AMD	214	1714
62A.7-101	AMD	214	201
62A.7-102	AMD	214	202
62A.7-103	AMD	214	203
62A.7-104	AMD	214	204
62A.7-105	AMD	214	205
62A.7-201	AMD	214	301
62A.7-202	AMD	214	302
62A.7-203	AMD	214	303
62A.7-204	AMD	214	304
62A.7-205	AMD	214	305
62A.7-206	AMD	214	306
62A.7-207	AMD	214	307
62A.7-208	AMD	214	308
62A.7-209	AMD	214	309
62A.7-210	AMD	214	310
62A.7-309	AMD	214	408
62A.7-301	AMD	214	401
62A.7-302	AMD	214	402
62A.7-303	AMD	214	403
62A.7-304	AMD	214	404
62A.7-305	AMD	214	405
62A.7-307	AMD	214	406
62A.7-308	AMD	214	407
62A.7-401	AMD	214	501
62A.7-402	AMD	214	502
62A.7-403	AMD	214	503
62A.7-404	AMD	214	504
62A.7-501	AMD	214	601
62A.7-502	AMD	214	602
62A.7-503	AMD	214	603
62A.7-504	AMD	214	604
62A.7-505	AMD	214	605
62A.7-506	AMD	214	606
62A.7-507	AMD	214	607
62A.7-508	AMD	214	608
62A.7-509	AMD	214	609
62A.7-601	AMD	214	701
62A.7-602	AMD	214	702
62A.7-603	AMD	214	703
62A.8-102	AMD	214	1401
62A.8-103	AMD	214	1402
			1403
62A.9A-102	AMD	214	1501
			1502
62A.9A-107	AMD	214	1716
62A.9A-203	AMD	214	1503
62A.9A-207	AMD	214	1504
62A.9A-208	AMD	214	1505
62A.9A-301	AMD	214	1506
62A.9A-310	AMD	214	1507
			1508
62A.9A-312	AMD	214	1509
62A.9A-313	AMD	214	1510
			1511
62A.9A-314	AMD	214	1512
62A.9A-317	AMD	214	1513
			1514

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RCW		CH.	SEC.
62A.9A-338	AMD	214	1515
			1516
62A.9A-601	AMD	214	1517
			1518
63.10.030	AMD	117	165
63.14.030	AMD	117	166
63.14.040	AMD	117	167
63.14.060	AMD	117	168
63.14.080	AMD	117	169
63.14.110	AMD	117	170
63.14.140	AMD	117	171
63.14.150	AMD	117	172
63.14.152	AMD	117	173
63.14.154	REMD	117	174
63.14.158	AMD	117	175
63.14.200	AMD	117	176
63.29.010	AMD	117	177
63.29.070	AMD	117	178
63.29.120	AMD	117	179
63.29.200	AMD	117	180
63.29.350	AMD	117	181
63.32.040	AMD	117	182
63.40.020	AMD	117	183
63.40.040	AMD	117	184
63.48.020	AMD	117	185
64.04	ADD	185	1
64.04.030	AMD	117	186
64.04.040	AMD	117	187
64.04.050	AMD	117	188
64.04.070	AMD	117	189
64.06.013	AMD	132	3
64.06.020	AMD	132	2
64.08.020	AMD	117	190
64.08.070	AMD	117	191
64.08.090	AMD	117	192
64.12.040	AMD	117	193
64.12.050	AMD	117	194
64.16.005	AMD	117	195
64.20.030	AMD	117	196
64.32.040	AMD	117	197
64.32.060	AMD	117	198
64.32.070	AMD	117	199
64.32.180	AMD	117	200
64.32.200	AMD	117	201
64.32.210	AMD	117	202
64.32.220	AMD	117	203
64.32.240	AMD	117	204
65.04.070	AMD	117	205
65.04.130	AMD	117	206
65.04.140	AMD	117	207
65.08.070	AMD	117	208
65.08.120	AMD	117	209
65.08.150	AMD	117	210
65.12.005	AMD	117	211
65.12.015	AMD	117	212
65.12.020	AMD	117	213
65.12.055	AMD	117	214
65.12.060	AMD	117	215
65.12.065	AMD	117	216
65.12.070	AMD	117	217
65.12.090	AMD	117	218
65.12.110	AMD	117	219
65.12.140	AMD	117	220
65.12.150	AMD	117	221
65.12.160	AMD	117	222
65.12.170	AMD	117	223
65.12.175	AMD	117	224
65.12.180	AMD	117	225
65.12.200	AMD	117	226
65.12.235	AMD	117	227
65.12.250	AMD	117	228
65.12.255	AMD	117	229
65.12.260	AMD	117	230
65.12.265	AMD	117	231
65.12.290	AMD	117	232
65.12.300	AMD	117	233
65.12.310	AMD	117	234
65.12.320	AMD	117	235
65.12.360	AMD	117	236
65.12.370	AMD	117	237
65.12.380	AMD	117	238
65.12.430	AMD	117	239
65.12.445	AMD	117	240
65.12.450	AMD	117	241
65.12.470	AMD	117	242
65.12.480	AMD	117	243
65.12.490	AMD	117	244
65.12.500	AMD	117	245
65.12.530	AMD	117	246
65.12.550	AMD	117	247
65.12.560	AMD	117	248
65.12.570	AMD	117	249
65.12.590	AMD	117	250
65.12.600	AMD	117	251
65.12.610	AMD	117	252
65.12.620	AMD	117	253
65.12.635	AMD	117	254
65.12.640	AMD	117	255
65.12.650	AMD	117	256
65.12.690	AMD	117	257

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RCW		CH.		SEC.
65.12.710	AMD	117		258
65.12.720	AMD	117		259
65.12.770	AMD	117		260
65.12.790	AMD	117		261
65.12.800	AMD	117		262
65.16.070	AMD	117		263
66.04	ADD	2		125
66.04.010	REMD	117		264
66.08.012	AMD	117		265
66.08.014	AMD	117		266
66.08.020	AMD	2		202
66.08.022	AMD	117		267
66.08.026	AMD	2		203
66.08.030	AMD	2		204
66.08.050	AMD	2		107
66.08.060	AMD	2		108
66.08.070	REP	2		215
66.08.075	REP	2		215
66.08.080	AMD	117		268
66.08.100	AMD	117		269
66.08.150	AMD	39		5
66.08.160	REP	2		215
66.08.165	REP	2		215
66.08.166	REP	2		215
66.08.167	REP	2		215
66.08.190	AMD	5	E2	8
66.08.196	AMD	5	E2	9
66.08.200	AMD	5	E2	10
66.08.210	AMD	5	E2	11
66.08.220	REP	2		215
66.08.235	REP	2		215
66.08.235	REP	198		26
66.12.030	AMD	117		270
66.12.070	AMD	117		271
66.12.110	AMD	117		272
66.16.010	REP	2		215
66.16.040	REP	2		215
66.16.041	REP	2		215
66.16.050	REP	2		215
66.16.060	REP	2		215
66.16.070	REP	2		215
66.16.100	REP	2		215
66.16.110	REP	2		215
66.16.120	REP	2		215
66.20.010	AMD	2		109
66.20.020	AMD	117		273
66.20.040	AMD	117		274
66.20.080	AMD	117		275
66.20.090	AMD	117		276
66.20.100	AMD	117		277
66.20.110	AMD	117		278
66.20.150	AMD	117		279
66.20.160	AMD	2		110
66.20.190	AMD	117		280
66.24	ADD	2		102,103
				105,206
				302
66.24.010	AMD	39		4
66.24.145	AMD	2		205
66.24.160	AMD	2		207
66.24.210	AMD	20		2
66.24.230	AMD	20		1
66.24.310	AMD	2		111
66.24.360	AMD	2		104
66.24.380	AMD	2		112
66.24.480	AMD	117		281
66.24.540	AMD	2		114
66.24.590	AMD	2		115
66.24.630	AMD	6	E2	401
66.28	ADD	2		120,123
66.28	ADD	39		7
66.28.030	AMD	2		113
66.28.040	REMD	2		116
66.28.045	REP	2		215
66.28.060	AMD	2		117
66.28.070	AMD	2		118
66.28.130	AMD	117		282
66.28.170	AMD	2		119
66.28.180	AMD	2		121
66.28.190	AMD	2		122
66.28.280	AMD	2		124
66.32.010	AMD	2		208
66.32.060	AMD	117		283
66.36.010	AMD	117		284
66.40.040	AMD	117		285
66.40.100	AMD	117		286
66.40.110	AMD	117		287
66.40.140	AMD	117		288
66.44.090	AMD	117		289
66.44.120	AMD	2		209
66.44.140	AMD	117		290
66.44.150	AMD	2		210
66.44.170	AMD	117		291
66.44.292	AMD	117		292
66.44.340	AMD	2		211
66.70.010	REP	2		216
66.70.020	REP	2		216
66.70.030	REP	2		216
66.70.040	REP	2		216
66.70.050	REP	2		216

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RCW		CH.		SEC.
66.70.060	REP	2		216
66.98.020	AMD	117		293
67.04.010	AMD	117		294
67.04.020	AMD	117		295
67.04.030	AMD	117		296
67.04.040	AMD	117		297
67.04.050	AMD	117		298
67.04.070	AMD	117		299
67.04.090	AMD	117		300
67.04.120	AMD	117		301
67.08.002	AMD	99		1
67.08.015	AMD	99		2
67.08.017	AMD	99		3
67.08.050	AMD	99		4
67.08.090	REMD	99		5
67.08.100	REMD	99		6
67.08.110	AMD	99		7
67.08.170	AMD	99		8
67.08.240	AMD	99		9
67.14.040	AMD	117		302
67.14.070	AMD	117		303
67.16.015	AMD	117		304
67.16.017	AMD	117		305
67.70.030	AMD	117		306
67.70.050	AMD	117		307
67.70.070	AMD	117		308
67.70.200	AMD	117		309
67.70.290	AMD	117		310
67.70.340	AMD	10	E1	6
67.70.500	AMD	43		1
68.40.085	AMD	117		311
68.40.090	AMD	117		312
68.44.030	AMD	117		313
68.46.040	AMD	206		1
68.50.040	AMD	117		314
68.50.060	AMD	117		315
68.50.080	AMD	117		316
68.50.102	AMD	117		317
68.50.160	AMD	5		1
68.50.300	AMD	117		318
68.52.120	AMD	117		319
68.52.260	AMD	117		320
68.52.270	AMD	117		321
68.54.040	AMD	117		322
68.54.050	AMD	117		323
68.54.070	AMD	117		324
68.54.110	AMD	117		325
68.56.020	AMD	117		326
68.56.060	AMD	117		327
69.04.006	AMD	117		328
69.04.080	AMD	117		329
69.04.090	AMD	117		330
69.04.160	AMD	117		331
69.04.170	AMD	117		332
69.04.190	AMD	117		333
69.04.206	AMD	117		334
69.04.331	AMD	25		1
69.04.350	AMD	117		335
69.04.390	AMD	117		336
69.04.392	AMD	117		337
69.04.570	AMD	117		338
69.04.600	AMD	117		339
69.04.620	AMD	117		340
69.04.750	AMD	117		341
69.04.790	AMD	117		342
69.04.840	AMD	117		343
69.04.915	AMD	117		344
69.07.060	AMD	117		345
69.25.080	AMD	117		346
69.25.100	AMD	117		347
69.25.110	AMD	117		348
69.25.120	AMD	117		349
69.25.140	AMD	117		350
69.25.170	AMD	117		351
69.25.180	AMD	117		352
69.25.200	AMD	117		353
69.25.260	AMD	117		354
69.25.320	AMD	117		355
69.28.020	AMD	117		356
69.28.030	AMD	117		357
69.28.040	AMD	117		358
69.28.190	AMD	117		359
69.28.410	AMD	117		360
69.28.420	AMD	117		361
69.36.010	AMD	117		362
69.36.020	AMD	117		363
69.36.040	AMD	117		364
69.41.010	AMD	10		44
69.41.085	AMD	10		45
69.41.130	AMD	117		365
69.50.101	AMD	8		1
69.50.102	AMD	117		366
69.50.308	AMD	10		46
69.50.309	AMD	117		367
69.50.412	AMD	117		368
69.50.502	AMD	117		369
69.50.506	AMD	117		370
69.50.507	AMD	117		371
70.01	ADD	184		1
70.05	ADD	175		1

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RCW		CH.	SEC.
70.05.125	REP	198	26
70.08.060	AMD	117	372
70.37.030	AMD	117	373
70.37.050	REMD	117	374
70.38.105	REMD	10	47
70.38.111	REMD	10	48
70.40.040	AMD	117	375
70.40.090	AMD	117	376
70.40.130	AMD	117	377
70.41	ADD	103	1
70.41	ADD	237	3
70.44.020	AMD	117	378
70.44.171	AMD	117	379
70.44.185	AMD	117	380
70.47	ADD	64	3
70.47	ADD	87	15
70.48	ADD	256	11
70.50.020	AMD	117	381
70.54.050	AMD	117	382
70.58.010	AMD	117	383
70.58.020	AMD	117	384
70.58.040	AMD	117	385
70.58.050	AMD	117	386
70.58.095	AMD	117	387
70.58.145	AMD	117	388
70.58.270	AMD	117	389
70.74.010	AMD	117	390
70.74.020	AMD	117	391
70.74.110	AMD	117	392
70.74.120	AMD	117	393
70.74.310	AMD	117	394
70.77.450	AMD	117	395
70.77.495	AMD	117	396
70.77.545	AMD	117	397
70.79.090	AMD	10	49
70.79.100	AMD	117	398
70.79.170	AMD	117	399
70.79.180	AMD	117	400
70.79.330	AMD	117	401
70.82.024	AMD	117	402
70.82.030	AMD	117	403
70.87	ADD	54	3
70.87.010	REMD	54	2
70.87.020	AMD	54	1
70.87.305	AMD	10	50
70.93.040	AMD	117	404
70.94	ADD	219	3
70.94	ADD	238	1
70.94.095	AMD	117	405
70.94.120	AMD	117	406
70.94.142	AMD	117	407
70.94.390	AMD	117	408
70.94.473	AMD	219	1
70.94.477	AMD	219	2
70.94.630	REP	198	26
70.94.6532	AMD	198	1
70.94.715	AMD	117	409
70.94.720	AMD	117	410
70.95.210	AMD	117	411
70.95B.020	AMD	117	412
70.95M.010	AMD	119	1
70.95M.050	AMD	119	2
70.95M.100	AMD	119	3
70.96A.180	AMD	117	413
70.97.060	AMD	10	51
70.97.090	AMD	10	52
70.98	ADD	19	13
70.98.030	AMD	19	8
70.98.050	AMD	117	414
70.98.085	AMD	19	9
70.98.095	AMD	19	10
70.98.098	AMD	19	11
70.98.100	AMD	117	415
70.98.130	AMD	19	12
70.98.190	AMD	117	416
70.105.095	AMD	117	417
70.105D.070	REMD	2 E2	6005
70.105D.070	REMD	7 E2	920
70.106.040	AMD	117	418
70.106.100	AMD	117	419
70.106.110	AMD	117	420
70.108.020	AMD	117	421
70.108.060	AMD	117	422
70.108.070	AMD	117	423
70.108.150	AMD	117	424
70.110.080	AMD	117	425
70.112.020	AMD	117	426
70.121.030	AMD	117	427
70.121.040	AMD	117	428
70.121.050	AMD	187	8
70.121.090	AMD	117	429
70.122.020	AMD	10	53
70.125.020	AMD	29	9
70.125.030	REMD	29	10
70.125.040	REP	29	14
70.125.050	REP	29	14
70.125.055	REP	29	14
70.125.065	AMD	29	11
70.125.080	REP	29	14
70.127.040	AMD	10	54

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RCW		CH.		SEC.
70.128.030	AMD	10		55
70.128.120	AMD	164		703
70.128.130	AMD	164		704
70.128.210	AMD	10		56
70.128.230	AMD	164		705
70.129.005	AMD	10		57
70.129.160	AMD	10		58
70.148.020	AMD	3	E1	1
70.148.900	AMD	3	E1	2
70.149.900	AMD	3	E1	3
70.180.110	AMD	229		593
70.225.020	AMD	192		1
71.05.310	AMD	256		8
71.06.010	AMD	117		430
71.06.020	AMD	117		431
71.06.050	AMD	117		432
71.06.060	AMD	117		433
71.06.080	AMD	117		434
71.06.091	AMD	117		435
71.06.100	AMD	117		436
71.06.120	AMD	117		437
71.06.130	AMD	117		438
71.06.260	AMD	117		439
71.09	ADD	257		8,9
71.09.040	AMD	257		4
71.09.050	AMD	257		5
71.09.080	AMD	257		6
71.09.090	AMD	257		7
71.09.110	AMD	257		10
71.09.120	AMD	257		11
71.09.140	AMD	257		12
71.12.570	AMD	117		440
71.12.640	AMD	117		441
71.24.025	AMD	10		59
71.24.100	AMD	117		442
71.24.360	AMD	91		1
71A.12	ADD	49		1
72.01.060	AMD	117		443
72.01.120	AMD	117		444
72.01.140	AMD	117		445
72.01.150	AMD	117		446
72.01.180	AMD	117		447
72.01.240	AMD	117		448
72.01.280	AMD	117		449
72.01.282	AMD	117		450
72.01.300	AMD	117		451
72.01.310	AMD	117		452
72.01.380	AMD	117		453
72.01.460	AMD	117		454
72.02.100	AMD	117		455
72.02.110	AMD	117		456
72.04A.090	AMD	117		457
72.04A.120	AMD	117		458
72.05.152	AMD	117		459
72.05.154	AMD	117		460
72.09	ADD	86		805
72.09.100	REMD	220		2
72.10.020	AMD	237		1
72.10.030	AMD	237		2
72.19.040	AMD	117		461
72.20.040	AMD	117		462
72.23.040	AMD	117		463
72.23.050	AMD	117		464
72.23.060	AMD	117		465
72.23.130	AMD	117		466
72.23.160	AMD	117		467
72.23.200	AMD	117		468
72.23.230	AMD	117		469
72.23.240	AMD	117		470
72.25.020	AMD	117		471
72.27.050	AMD	117		472
72.40	ADD	114		1,2
72.41.020	AMD	117		473
72.41.030	AMD	117		474
72.42.031	AMD	117		475
72.60.100	AMD	117		476
72.60.160	AMD	117		477
72.64.010	AMD	117		478
72.64.040	AMD	117		479
72.64.065	AMD	117		480
72.64.070	AMD	117		481
72.64.110	AMD	117		482
72.65.020	AMD	117		483
72.65.030	AMD	117		484
72.65.040	AMD	117		485
72.66.010	AMD	117		486
72.66.014	AMD	117		487
72.66.018	AMD	117		488
72.66.022	AMD	117		489
72.66.024	AMD	117		490
72.66.024	AMD	117		491
72.66.026	AMD	117		492
72.66.028	AMD	117		493
72.66.032	AMD	117		494
72.66.034	AMD	117		495
72.66.050	AMD	117		496
72.66.080	AMD	117		497
72.66.090	AMD	117		498
72.68.031	AMD	117		499
72.68.040	AMD	117		500

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RCW		CH.		SEC.
72.68.050	AMD	117		501
72.68.060	AMD	117		502
72.68.070	AMD	117		503
73.04.050	AMD	117		504
73.04.060	AMD	117		505
73.04.120	AMD	117		506
73.20.060	AMD	117		507
73.36.010	AMD	117		508
73.36.040	AMD	117		509
73.36.060	AMD	117		510
73.36.090	AMD	117		511
73.36.100	AMD	117		512
73.36.110	AMD	117		513
73.36.130	AMD	117		514
73.36.150	AMD	117		515
73.36.155	AMD	117		516
73.36.160	AMD	117		517
73.36.165	AMD	117		518
74	ADD	205		1-7
74	ADD	234		1-4
74	ADD	241		201-214
74.04.014	AMD	253		4
74.04.652	REP	57		1
74.08	ADD	253		3
74.08.580	AMD	253		2
74.08A	ADD	217		1
74.08A.340	REP	217		2
74.09	ADD	241		103-105
74.09.120	AMD	10		60
74.09.210	AMD	241		102
74.13	ADD	3		15
74.13	ADD	163		6
74.13	ADD	204		2
74.13.020	REMD	205		12
74.13.020	REMD	259		7
74.13.031	REMD	52		2
74.13.031	REMD	259		8
74.13.360	AMD	205		8
74.13.368	AMD	205		10
74.13.370	AMD	205		9
74.13.372	AMD	205		11
74.13.570	AMD	229		594
74.13.680	AMD	52		3
74.13A	ADD	147		1,2
74.14B.060	REP	29		14
74.15	ADD	3		16
74.15.020	AMD	10		61
74.20.040	AMD	4	E1	1
74.20.330	AMD	4	E1	2
74.34	ADD	156		1
74.34.020	REMD	10		62
74.34.140	AMD	156		2
74.39A	ADD	1		101,102
				106-114
				304
74.39A.009	REP	1		115
74.39A.009	AMD	10		63
74.39A.009	AMD	164		202
74.39A.010	AMD	10		64
74.39A.010	AMD	164		706
74.39A.020	AMD	10		65
74.39A.020	AMD	164		707
74.39A.030	AMD	10		66
74.39A.050	REP	1		115
74.39A.051	AMD	164		701
74.39A.055	REP	1		115
74.39A.056	AMD	164		503
74.39A.073	REP	1		115
74.39A.074	AMD	164		401
74.39A.075	REP	1		115
74.39A.076	AMD	164		402
74.39A.085	REP	1		115
74.39A.086	AMD	164		602
74.39A.095	REMD	164		507
74.39A.250	AMD	164		708
74.39A.260	REP	1		115
74.39A.261	AMD	164		502
74.39A.310	REP	1		115
74.39A.320	AMD	10		67
74.39A.330	REP	1		115
74.39A.331	AMD	164		403
74.39A.340	REP	1		115
74.39A.341	AMD	164		405
74.39A.350	REP	1		115
74.39A.351	AMD	164		404
74.41.040	AMD	10		68
74.42.055	AMD	10		69
74.48.090	AMD	7	E2	921
76.04.015	AMD	38		1
76.04.135	AMD	38		2
76.04.610	AMD	7	E2	922
76.09	ADD	1	E1	202
76.09	ADD	62		8
76.09.020	REMD	1	E1	212
76.09.030	AMD	1	E1	211
76.09.040	AMD	1	E1	203
76.09.050	AMD	1	E1	205
76.09.060	REMD	1	E1	206
76.09.065	AMD	1	E1	209
76.09.150	AMD	1	E1	207

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RCW		CH.		SEC.
76.09.400	REP	198		26
76.09.470	AMD	1	E1	210
77.08	ADD	176		5
77.08.010	REMD	176		4
77.12.201	AMD	7	E2	923
77.12.203	AMD	7	E2	924
77.12.315	REP	176		40
77.12.323	AMD	187		7
77.12.870	AMD	190		2
77.15	ADD	176		11,12
				38,39
77.15.030	AMD	176		6
77.15.050	AMD	176		7
77.15.075	AMD	176		8
77.15.080	AMD	176		9
77.15.100	AMD	176		10
77.15.110	AMD	176		13
77.15.130	AMD	176		14
77.15.140	REP	176		40
77.15.160	AMD	176		15
77.15.170	AMD	176		16
77.15.190	AMD	176		17
77.15.220	REP	176		40
77.15.240	AMD	176		18
77.15.260	AMD	176		19
77.15.280	AMD	176		20
77.15.290	AMD	176		21
77.15.330	REP	176		40
77.15.370	AMD	176		22
77.15.380	AMD	176		23
77.15.390	AMD	176		24
77.15.400	AMD	176		25
77.15.410	AMD	176		26
77.15.430	AMD	176		27
77.15.460	AMD	176		28
77.15.610	AMD	176		29
77.15.620	AMD	176		30
77.15.630	AMD	176		31
77.15.640	AMD	176		32
77.15.650	AMD	176		33
77.15.660	AMD	176		34
77.15.700	AMD	176		35
77.15.720	AMD	176		36
77.15.740	AMD	176		37
77.32	ADD	167		2
77.36	ADD	167		3
77.55	ADD	1	E1	103,104
				107,108
				201,204
77.55.011	REMD	1	E1	101
77.55.021	AMD	1	E1	102
77.55.151	AMD	1	E1	105
77.55.231	AMD	1	E1	106
77.65.230	REP	198		26
78.56.080	AMD	198		15
79.02.010	AMD	166		2
79.17.010	AMD	2	E2	6006
79.17.020	AMD	2	E2	6007
79.22	ADD	166		3,4
79.22.060	AMD	166		7
79.64.040	REMD	7	E2	927
79.64.100	AMD	7	E2	928
79.64.100	AMD	166		5
79.64.110	AMD	166		6
79.105.150	AMD	2	E2	6008
79.105.150	AMD	7	E2	929
79A.05.070	AMD	261		8
79A.25.200	AMD	7	E2	931
79A.25.260	AMD	128		1
79A.80	ADD	261		4
79A.80.010	AMD	261		1
79A.80.020	AMD	261		2
79A.80.030	AMD	261		3
79A.80.040	AMD	261		5
79A.80.050	AMD	261		6
79A.80.080	AMD	261		7
80.04.580	AMD	111		1
81.112.220	AMD	68		3
82.02.060	AMD	200		1
82.03.190	AMD	39		3
82.04	ADD	6	E2	101
82.04	ADD	249		1
82.04.214	AMD	6	E2	601
82.04.260	AMD	6	E2	204
82.04.260	AMD	6	E2	602
82.04.2908	AMD	10		70
82.04.4264	AMD	10		71
82.04.4266	AMD	6	E2	201
82.04.4268	AMD	6	E2	202
82.04.4269	AMD	6	E2	203
82.04.4292	AMD	6	E2	102
82.04.4337	AMD	10		72
82.04.4489	AMD	189		4
82.04.449	AMD	46		3
82.08	ADD	39		1
82.08.150	AMD	2		106
82.08.160	AMD	5	E2	3
82.08.170	AMD	5	E2	4
82.08.986	AMD	6	E2	302
82.08.986	AMD	6	E2	303

RCW SECTIONS AFFECTED BY 2012 STATUTES

RCW		CH.		SEC.
82.12.986	AMD	6	E2	304
82.14.048	AMD	4		6
82.14.050	AMD	9	E1	1
82.14.200	REP	198		26
82.14.210	REP	198		26
82.14.370	AMD	225		4
82.14.380	REP	198		26
82.14.460	AMD	180		1
82.18.040	AMD	5	E2	2
82.23A.010	AMD	3	E1	4
82.23A.020	AMD	3	E1	5
82.23A.902	AMD	3	E1	6
82.24.010	AMD	4	E2	1
82.24.030	AMD	4	E2	2
82.24.035	AMD	4	E2	3
82.24.050	AMD	4	E2	4
82.24.060	AMD	4	E2	5
82.24.110	AMD	4	E2	6
82.24.120	AMD	4	E2	7
82.24.130	REMD	4	E2	8
82.24.180	AMD	4	E2	9
82.24.295	AMD	4	E2	10
82.24.500	AMD	4	E2	11
82.24.530	AMD	4	E2	12
82.29A.020	AMD	6	E2	501
82.32.080	REMD	39		2
82.32.145	AMD	39		8
82.32.392	REP	198		26
82.32.393	AMD	198		6
82.33	ADD	8	E1	4,5
82.33.010	AMD	8	E1	2
82.33.020	AMD	8	E1	3
82.33.020	AMD	182		1
82.45.200	REP	198		26
82.45.210	AMD	198		7
83.100.230	AMD	10	E1	7
83.110A.020	AMD	97		1
84.09.030	AMD	186		17
84.14.007	AMD	194		1
84.14.010	REMD	194		2
84.14.030	AMD	194		3
84.14.040	AMD	194		4
84.14.050	AMD	194		5
84.14.060	REMD	194		6
84.14.070	AMD	194		7
84.14.090	AMD	194		8
84.14.100	AMD	194		9
84.14.110	AMD	194		10
84.33.140	REMD	170		1
84.33.145	AMD	170		2
84.36.031	AMD	76		1
84.36.381	AMD	10		73
84.36.383	AMD	10		74
84.40.130	AMD	59		1
84.52.053	AMD	186		18
84.52.0531	REMD	10	E1	8
84.52.069	AMD	115		1
86.26.007	AMD	7	E2	932
88.02.640	REMD	74		16
88.16.070	AMD	81		1
89.08	ADD	60		1
89.16.020	AMD	187		9
90.14.140	AMD	7		1
90.14.140	REMD	7		2
90.48.260	AMD	1	E1	313
90.48.390	AMD	7	E2	933
90.48.555	AMD	110		1
90.58.140	AMD	84		2
90.58.190	AMD	172		1
90.58.355	AMD	169		1
90.74	ADD	62		5
90.74.005	AMD	62		2
90.74.010	AMD	62		3
90.74.020	AMD	62		4
90.74.030	AMD	62		7
90.88.060	REP	198		26
90.90.030	AMD	161		1

UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 2012 STATUTES

LAWS 1997			LAWS 2012	
Ch.	Sec.	Action	Ch.	Sec.
149	707	REP	198	27

LAWS 2000 2ND SP.S.			LAWS 2012	
Ch.	Sec.	Action	Ch.	Sec.
1	711	REP	198	27
1	717	REP	198	27
1	719	REP	198	27

LAWS 2007			LAWS 2012	
Ch.	Sec.	Action	Ch.	Sec.
248	3	AMD	40	3
248	6	REP	40	1
522	1621	REP	198	27

LAWS 2010			LAWS 2012	
Ch.	Sec.	Action	Ch.	Sec.
79	3	REP	92	3
254	2	AMD	6	1

LAWS 2010			LAWS 2012 2ND SP.S.	
Ch.	Sec.	Action	Ch.	Sec.
23	205	AMD	7	934

LAWS 2011			LAWS 2012	
Ch.	Sec.	Action	Ch.	Sec.
263	27	AMD	96	2
367		ADD	86	103
367		ADD	86	104
367		ADD	86	311
367		ADD	86	601
367		ADD	86	701
367		ADD	86	702
367		ADD	86	703
367		ADD	86	704
367		ADD	86	705
367		ADD	86	706
367		ADD	86	707
367		ADD	86	708
367		ADD	86	709
367		ADD	86	710
367		ADD	86	711
367		ADD	86	712
367		ADD	86	713
367	101	AMD	86	101
367	103	AMD	86	102
367	105	AMD	86	105
367	106	AMD	86	106
367	201	AMD	86	201
367	202	AMD	86	202
367	203	AMD	86	203

LAWS 2011			LAWS 2012	
Ch.	Sec.	Action	Ch.	Sec.
367	204	AMD	86	204
367	205	AMD	86	205
367	206	AMD	86	206
367	207	AMD	86	207
367	208	AMD	86	208
367	209	AMD	86	209
367	210	AMD	86	210
367	211	AMD	86	211
367	212	AMD	86	212
367	213	AMD	86	213
367	214	AMD	86	214
367	215	AMD	86	215
367	216	AMD	86	216
367	217	AMD	86	217
367	218	AMD	86	218
367	219	AMD	86	219
367	220	AMD	86	220
367	221	AMD	86	221
367	222	AMD	86	222
367	223	AMD	86	223
367	301	AMD	86	301
367	302	AMD	86	302
367	303	AMD	86	303
367	304	AMD	86	304
367	305	AMD	86	305
367	306	AMD	86	306
367	307	AMD	86	307
367	308	AMD	86	308
367	309	AMD	86	309
367	310	AMD	86	310
367	401	AMD	86	401
367	402	AMD	86	402
367	403	AMD	86	403
367	404	AMD	86	404
367	405	AMD	86	405
367	406	AMD	86	406
367	407	AMD	86	407
367	502	AMD	86	501
367	503	AMD	86	502
367	505	AMD	86	503
367	603	AMD	86	603
367	608	AMD	86	602

LAWS 2011 1ST SP.S.			LAWS 2012	
Ch.	Sec.	Action	Ch.	Sec.
11	244	AMD	229	901
50	718	REP	86	504
50	719	REP	86	504
50	720	REP	86	504
50	721	REP	86	504

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LAWS 2011 1ST SP.S.			LAWS 2012 2ND SP.S.	
Ch.	Sec.	Action	Ch.	Sec.
48		ADD	2	1005
48		ADD	2	1006
48		ADD	2	1007
48		ADD	2	1016
48		ADD	2	1017
48		ADD	2	1018
48		ADD	2	1025
48		ADD	2	1026
48		ADD	2	2004
48		ADD	2	3002
48		ADD	2	3003
48		ADD	2	3004
48		ADD	2	3005
48		ADD	2	3009
48		ADD	2	3012
48		ADD	2	3019
48		ADD	2	3021
48		ADD	2	3022
48		ADD	2	3025
48		ADD	2	4001
48		ADD	2	4002
48		ADD	2	5007
48		ADD	2	5011
48		ADD	2	5013
48		ADD	2	5016
48		ADD	2	5023
48	1018	AMD	2	1008
48	2005	AMD	2	2001
48	2006	AMD	2	2002
48	3024	AMD	2	3007
48	3025	AMD	2	3010
48	3036	AMD	2	3011
48	3083	AMD	2	3023
48	5003	AMD	2	5005
48	5006	AMD	2	5010
48	5007	AMD	2	5009
48	5014	AMD	2	5014
48	5022	AMD	2	5018
48	5027	AMD	2	5015
48	5040	AMD	2	5019
48	7011	AMD	2	6001
49		ADD	2	1003
49		ADD	2	1009
49		ADD	2	1010
49		ADD	2	1011
49		ADD	2	1012
49		ADD	2	1013
49		ADD	2	1014

LAWS 2011 1ST SP.S.			LAWS 2012 2ND SP.S.	
Ch.	Sec.	Action	Ch.	Sec.
49		ADD	2	1015
49		ADD	2	1023
49		ADD	2	2003
49		ADD	2	3013
49		ADD	2	3014
49		ADD	2	3015
49		ADD	2	3016
49		ADD	2	3018
49		ADD	2	5008
49		ADD	2	6003
49		ADD	2	6010
49	1011	AMD	2	1001
49	1017	AMD	2	1019
49	1024	AMD	2	1004
49	1027	AMD	1	308
49	1028	AMD	2	1002
49	1036	AMD	2	1021
49	1046	AMD	2	1022
49	1047	AMD	2	1024
49	1054	AMD	2	1027
49	2017	AMD	1	403
49	2027	AMD	2	2005
49	2034	AMD	2	2006
49	3008	AMD	2	3006
49	3027	AMD	2	3001
49	3028	AMD	2	3008
49	3070	AMD	2	3020
49	3082	AMD	1	518
49	3108	AMD	2	3024
49	5002	AMD	2	5001
49	5003	AMD	1	605
49	5004	AMD	2	5004
49	5006	AMD	2	5006
49	5008	AMD	2	5002
49	5009	AMD	2	5003
49	5012	AMD	1	606
49	5013	AMD	1	604
49	5017	AMD	1	616
49	5022	AMD	2	5012
49	5030	AMD	2	5017
49	5062	AMD	1	622
49	5070	AMD	2	5020
49	5075	AMD	1	621
49	5082	AMD	2	5021
49	5088	AMD	2	5022
50		ADD	7	109
50		ADD	7	110
50		ADD	7	612

UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 2012 STATUTES

LAWS 2011			LAWS 2012	
1ST SP.S.			2ND SP.S.	
Ch.	Sec.	Action	Ch.	Sec.
50		ADD	7	613
50		ADD	7	706
50		ADD	7	707
50		ADD	7	708
50		ADD	7	709
50		ADD	7	713
50		ADD	7	715
50		ADD	7	902
50		ADD	7	903
50		ADD	7	904
50		ADD	7	905
50		ADD	7	906
50		ADD	7	907
50		ADD	7	908
50		ADD	7	912
50		ADD	7	936
50	103	AMD	7	103
50	104	AMD	7	104
50	105	AMD	7	106
50	106	AMD	7	105
50	108	AMD	7	108
50	112	AMD	7	113
50	115	AMD	7	117
50	117	AMD	7	119
50	120	AMD	7	122
50	124	AMD	7	126
50	128	AMD	7	130
50	132	AMD	7	134
50	133	AMD	7	135
50	136	AMD	7	141
50	137	AMD	7	138
50	142	AMD	7	147
50	147	AMD	7	150
50	149	AMD	7	152
50	151	AMD	7	151
50	214	AMD	7	214
50	516	AMD	7	514
50	614	REP	7	608
50	615	REP	7	609
50	616	AMD	7	614
50	709	REP	7	709
50	710	REP	7	709
50	715	AMD	7	703
50	801	AMD	7	801
50	802	AMD	7	802
50	803	AMD	7	803
50	910	AMD	7	901
50	920	AMD	7	909

LAWS 2011			LAWS 2012	
1ST SP.S.			2ND SP.S.	
Ch.	Sec.	Action	Ch.	Sec.
50	921	AMD	7	910
50	922	AMD	7	911

LAWS 2011			LAWS 2012	
2ND SP.S.			2ND SP.S.	
Ch.	Sec.	Action	Ch.	Sec.
9	101	AMD	7	101
9	102	AMD	7	102
9	103	AMD	7	107
9	104	AMD	7	111
9	105	AMD	7	112
9	106	AMD	7	114
9	107	AMD	7	115
9	108	AMD	7	116
9	109	AMD	7	118
9	110	AMD	7	120
9	111	AMD	7	121
9	112	AMD	7	123
9	114	AMD	7	125
9	115	AMD	7	127
9	116	AMD	7	128
9	117	AMD	7	129
9	118	AMD	7	131
9	119	AMD	7	132
9	120	AMD	7	133
9	121	AMD	7	136
9	122	AMD	7	137
9	123	AMD	7	139
9	125	AMD	7	140
9	126	AMD	7	146
9	127	AMD	7	148
9	128	AMD	7	142
9	129	AMD	7	143
9	130	AMD	7	144
9	131	AMD	7	145
9	132	AMD	7	149
9	201	AMD	7	201
9	202	AMD	7	202
9	203	AMD	7	203
9	204	AMD	7	204
9	205	AMD	7	205
9	206	AMD	7	206
9	207	AMD	7	207
9	208	AMD	7	208
9	209	AMD	7	209
9	210	AMD	7	210
9	211	AMD	7	211
9	212	AMD	7	212

UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 2012 STATUTES

LAWS 2011			LAWS 2012	
2ND SP.S.			2ND SP.S.	
Ch.	Sec.	Action	Ch.	Sec.
9	213	AMD	7	213
9	214	AMD	7	215
9	215	AMD	7	216
9	216	AMD	7	217
9	217	AMD	7	218
9	218	AMD	7	219
9	219	AMD	7	220
9	220	AMD	7	221
9	221	AMD	7	222
9	301	AMD	7	301
9	302	AMD	7	302
9	303	AMD	7	303
9	304	AMD	7	304
9	305	AMD	7	305
9	306	AMD	7	306
9	307	AMD	7	307
9	308	AMD	7	308
9	309	AMD	7	309
9	310	AMD	7	310
9	311	AMD	7	311
9	401	AMD	7	401
9	402	AMD	7	402
9	501	AMD	7	501
9	502	AMD	7	502
9	503	AMD	7	503
9	504	AMD	7	504
9	505	AMD	7	505
9	507	AMD	7	506
9	508	AMD	7	507
9	509	AMD	7	508
9	510	AMD	7	509
9	511	AMD	7	510

LAWS 2011			LAWS 2012	
2ND SP.S.			2ND SP.S.	
Ch.	Sec.	Action	Ch.	Sec.
9	513	AMD	7	511
9	514	AMD	7	512
9	515	AMD	7	513
9	601	AMD	7	601
9	602	AMD	7	602
9	603	AMD	7	603
9	604	AMD	7	604
9	605	AMD	7	605
9	606	AMD	7	606
9	607	AMD	7	607
9	608	AMD	7	610
9	609	AMD	7	611
9	610	REP	7	608
9	611	REP	7	609
9	612	AMD	7	615
9	613	AMD	7	616
9	614	AMD	7	617
9	615	AMD	7	618
9	616	AMD	7	619
9	617	AMD	7	620
9	701	AMD	7	701
9	702	AMD	7	702
9	705	REP	7	704
9	706	REP	7	710
9	707	REP	7	705
9	708	REP	7	711
9	801	AMD	7	804

LAWS 2012			LAWS 2012	
Ch.	Sec.	Action	Ch.	Sec.
1	201	AMD	164	709
1	303	AMD	164	710

SUBJECT INDEX OF 2012 STATUTES

BONDS - con't. **Chapter**

BOXING (See SPORTS)

BRIDGES (See ROADS AND HIGHWAYS)

BUDGET

BUILDING CODES/PERMITS

BUSINESSES (See also CHECKS AND CHECK CASHING; CONTRACTORS; FINANCIAL INSTITUTIONS; SALES; UTILITIES)

CASELOAD FORECAST COUNCIL

Chapter

Chapter

PUBLIC FUNDS AND ACCOUNTS - con't. **Chapter**

PUBLIC HEALTH AND SAFETY (See also AIR QUALITY AND POLLUTION; DRUGS; HAZARDOUS WASTE; HEALTH CARE; HEALTH, DEPARTMENT; HOSPITALS; LEAD; WATER POLLUTION)

PUBLIC INSTRUCTION, SUPERINTENDENT

SEX OFFENSES AND OFFENDERS - con't. **Chapter**

TRAFFIC OFFENSES - con't. **Chapter**

STATE MEASURES FILED WITH THE SECRETARY OF STATE

INITIATIVES TO THE PEOPLE

For information on Initiatives to the People, see http://secstate.wa.gov/elections/initiatives/statistics.aspx. For additional information, call the Office of the Secretary of State at (360) 902-4180.

INITIATIVES TO THE LEGISLATURE

For information on Initiatives to the Legislature, see http://secstate.wa.gov/elections/initiatives/statistics.aspx. For additional information, call the Office of the Secretary of State at (360) 902-4180.

REFERENDUM MEASURES

For information on Referendum Measures, see http://secstate.wa.gov/elections/initiatives/statistics.aspx. For additional information, call the Office of the Secretary of State at (360) 902-4180.

REFERENDUM BILLS

For information on Referendum Bills, see http://secstate.wa.gov/elections/initiatives/statistics.aspx. For additional information, call the Office of the Secretary of State at (360) 902-4180.

HISTORY OF CONSTITUTIONAL AMENDMENTS ADOPTED SINCE STATEHOOD

No. 1. Section 5, Article XVI. Re: **Permanent School Fund.** Adopted November, 1894.

No. 2. Section 1, Article VI. Re: **Qualification of Electors.** Adopted November, 1896.

No. 3. Section 2, Article VII. Re: **Uniform Rates of Taxation.** Adopted November, 1900.

No. 4. Section 11, Article I. Re: **Religious Freedom.** Adopted November, 1904.

No. 5. Section 1, Article VI. Re: **Equal Suffrage.** Adopted November, 1910.

No. 6. Section 10, Article III. Re: **Succession in Office of Governor.** Adopted November, 1910.

No. 7. Section 1, Article II. Re: **Initiative and Referendum.** Adopted November, 1912.

No. 8. Adding Sections 33 and 34, Article I. Re: **Recall.** Adopted November, 1912.

No. 9. Section 16, Article I. Re: **Taking of Private Property.** Adopted November, 1922.

No. 10. Section 22, Article I. Re: **Right of Appeal.** Adopted November, 1922.

No. 11. Section 4, Article VIII. Re: **Appropriation.** Adopted November, 1922.

No. 12. Section 5, Article XI. Re: **Consolidation of County Offices.** Adopted November, 1924.

No. 13. Section 15, Article II. Re: **Vacancies in the Legislature.** Adopted November, 1930.

No. 14. Article VII. Re: **Revenue and Taxation.** Adopted November, 1930.

No. 15. Section 1, Article XV. Re: **Harbors and Harbor Areas.** Adopted November, 1932.

No. 16. Section 11, Article XII. Re: **Double Liability of Stockholders.** Adopted November, 1940.

No. 17. Section 2, Article VII. Re: **40-Mill Tax Limit.** Adopted November, 1944.

No. 18. Adding Section 40, Article II. Re: **Restriction of motor vehicle license fees and excise taxes on motor fuels to highway purposes only.** Adopted November, 1944.

No. 19. Adding Section 3, Article VII. Re: **State to tax the United States and its instrumentalities to the extent that the laws of the United States will allow.** Adopted November, 1946.

No. 20. Adding Section 1, Article XXVIII. Re: **Legislature to fix the salaries of state elective officials.** Adopted November, 1948.

No. 21. Section 4, Article XI. Re: **Permit counties to adopt "Home Rule" charters.** Adopted November, 1948.

No. 22. Repealing Section 7 of Article XI. Re: **County elective officials.** (These officials can now hold same office more than two terms in succession.) Adopted November, 1948.

No. 23. Adding Section 16, Article XI. Re: **Permitting the formation, under a charter, of combined city and county municipal corporations having a population of 300,000 or more.** Adopted November, 1948.

No. 24. Article II, Section 33. Re: **Permitting ownership of land by Canadians who are citizens of provinces wherein citizens of the State of Washington may own land.** (All provinces of Canada authorize such ownership.) Adopted November, 1950.

No. 25. Adding Section 3(a), Article IV. Re: **Establishing Retirement Age for Judges of Supreme and Superior Courts.** Adopted November, 1952.

No. 26. Adding Section 41, Article II. Re: **Permitting the Legislature to Amend Initiative Measures.** Adopted November, 1952.

No. 27. Section 6, Article VIII. Re: **Extending Bonding Powers of School Districts.** Adopted November, 1952.

No. 28. Sections 6 and 10, Article IV. Re: **Increasing Monetary Jurisdiction of Justice Courts.** Adopted November, 1952.

No. 29. Article II, Section 33. Re: **Redefining "Alien," thereby permitting the Legislature to determine the policy of the state respecting the ownership of land by corporations having alien shareholders.** Adopted November, 1954.

No. 30. Adding Section 1A, Article II. Re: **Increasing the number of signatures necessary to certify a state initiative or referendum measure.** Adopted November, 1956.

No. 31. Section 25, Article III. Re: **Removing the restriction prohibiting the state treasurer from being elected for more than one successive term.** Adopted November, 1956.

No. 32. Section 2, Article XV. Re: **Filling vacancies in the state legislature.** Adopted November, 1956.

No. 33. Section 1, Article XXIV. Re: **Modification of state boundaries by compact.** Adopted November, 1958.

No. 34. Section 11, Article I. Re: **Employment of chaplains at state institutions.** Adopted November, 1958.

No. 35. Section 25, Article II. Re: **Pensions and Employees' Extra Compensation.** Adopted November, 1958.

No. 36. Section 1, Article II by adding a new subsection (e). Re: **Publication and Distribution of Voters' Pamphlet.** Adopted November, 1962.

No. 37. Section 1, Article XXIII. Re: **Publication of Proposed Constitutional Amendments.** Adopted November, 1962.

No. 38. Adding Section 2(c), Article IV. Re: **Temporary Performance of Judicial Duties.** Adopted November, 1962.

No. 39. Adding Section 42, Article II. Re: **Governmental Continuity During Emergency Periods.** Adopted November, 1962.

No. 40. Section 10, Article XI. Re: **Lowering minimum population for first class cities from 20,000 to 10,000. Also changing newspaper publication requirements for proposed charters.** Adopted November, 1964.

No. 41. Section 29, Article IV. Re: **Election of Superior Court Judges.** Adopted November, 1966.

No. 42. Repealing Section 33, Article II and Amendments 24 and 29. Re: **Alien Ownership of Lands.** Adopted November, 1966.

No. 43. Section 3, Article IX. Re: **Funds for Support of the Common Schools.** Adopted November, 1966.

No. 44. Section 5, Article XVI. Re: **Investment of Permanent Common School Fund.** Adopted November, 1966.

No. 45. Adding Section 8, Article VIII. Re: **Port Expenditures—Industrial Development—Promotion.** Adopted November, 1966.

No. 46. Adding Section 1A, Article VI. Re: **Voter Qualifications for Presidential Elections.** Adopted November, 1966.

No. 47. Adding Section 10, Article VII. Re: **Retired Persons Property Tax Exemption.** Adopted November, 1966.

No. 48. Section 3, Article VIII. Re: **Public Special Indebtedness, How Authorized.** Adopted November, 1966.

No. 49. Adding Section 1, Article XXIX. Re: **Investments of Public Pension and Retirement Funds.** Adopted November, 1968.

No. 50. Adding Section 30, Article IV. Re: **Court of Appeals.** Adopted November, 1968.

No. 51. Adding Section 9, Article VIII. Re: **State Building Authority.** Adopted November, 1968.

No. 52. Section 15, Article II. Re: **Vacancies in Legislature and in Partisan County Elective Office.** Also amending Section 6, Article XI. Re: **Vacancies in Township, Precinct or Road District Office.** Adopted November, 1968.

No. 53. Adding Section 11, Article VII. Re: **Taxation Based on Actual Use.** Adopted November, 1968.

No. 54. Adding Section 1, Article XXX. Re: **Authorizing Compensation Increase During Term.** Adopted November, 1968.

No. 55. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1972.

No. 56. Section 24, Article II. Re: **Lotteries and Divorce.** Adopted November, 1972.

No. 57. Section 5, Article XI. Re: **County Government.** Adopted November, 1972.

No. 58. Section 16, Article XI. Re: **Combined City-County.** Adopted November, 1972.

No. 59. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1972.

No. 60. Section 1, Article VIII. Re: **State Debt.** Also amending Section 3, Article VIII. Re: **Special Indebtedness, How Authorized.** Approved November, 1972.

No. 61. Adding new Article XXXI. Re: **Sex Equality, Rights and Responsibilities.** Adopted November, 1972.

No. 62. Section 12, Article III. Re: **Veto Power.** Adopted November, 1974.

No. 63. Section 1, Article VI. Re: **Qualifications of Electors.** Adopted November, 1974.

No. 64. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1976.

No. 65. Section 6, Article IV. Re: **Jurisdiction of Superior Courts.** Also amending Section 10, Article IV. Re: **Justices of the Peace.** Adopted November, 1976.

No. 66. Section 18, Article XII. Re: **Rates for Transportation.** Adopted November, 1977.

No. 67. Repealing Section 14, Article XII. Re: **Prohibition Against Combinations by Carriers.** Adopted November, 1977.

No. 68. Section 12, Article II. Re: **Legislative Sessions, When—Duration.** Adopted November, 1979.

No. 69. Section 13, Article II. Re: **Limitation on Members Holding Office in the State.** Adopted November, 1979.

No. 70. Adding Section 10, Article VIII. Re: **Residential Energy Conservation.** Adopted November, 1979.

No. 71. Adding Section 31, Article IV. Re: **Judicial Qualifications Commission—Removal, Censure, Suspension, or Retirement of Judges or Justices.** Adopted November, 1980.

No. 72. Sections 1 and 1(a), Article II. Re: **Legislative Powers, Where Vested and Initiative and Referendum, Signatures Required.** Adopted November, 1981.

No. 73. Adding Section 1, Article XXXII. Re: **Special Revenue Financing.** Adopted November, 1981.

No. 74. Adding Section 43, Article II. Re: **Redistricting.** Adopted November, 1983.

No. 75. Section 1, Article XXIX. Re: **May be Invested as Authorized by Law.** Adopted November, 1985.

No. 76. Adding Section 11, Article VIII. Re: **Agricultural Commodity Assessments—Development, Promotion, and Hosting.** Adopted November, 1985.

No. 77. Section 31, Article IV. Re: **Commission on Judicial Conduct—Removal, Censure, Suspension, or Retirement of Judges or Justices—Proceedings.** Adopted November, 1986.

No. 78. Section 1, Article XXVIII. Re: **Salaries for Legislators, Elected State Officials, and Judges—Independent Commission—Referendum.** Adopted November, 1986.

No. 79. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1986.

No. 80. Section 7, Article IV. Re: **Exchange of judges—Judge Pro Tempore.** Adopted November, 1987.

No. 81. Section 1, Article VII. Re: **Taxation.** Adopted November, 1988.

No. 82. Section 10, Article VIII. Re: **Residential Energy Conservation.** Adopted November, 1988.

No. 83. Section 3, Article VI. Re: **Who disqualified.** Also amending Section 1, Article XIII. Re: **Educational, reformatory and penal institutions.** Adopted November, 1988.

No. 84. Adding Section 35, Article I. Re: **Victims of Crimes—Rights.** Adopted November, 1989.

No. 85. Section 31, Article IV. Re: **Commission on Judicial Conduct.** Adopted November, 1989.

No. 86. Section 10, Article VIII. Re: **Energy and Water Conservation Assistance.** Adopted November, 1989.

No. 87. Section 6, Article IV. Re: **Jurisdiction of Superior Courts.** Adopted November, 1993.

No. 88. Section 11, Article I. Re: **Religious Freedom.** Adopted November, 1993.

No. 89. Section 3, Article 4. Re: **Election and Terms of Supreme Court Judges.** Adopted November, 1995.

No. 90. Section 2, Article VII. Re: **Limitation on levies.** Adopted November, 1997.

No. 91. Section 10, Article VIII. Re: **Energy, water, or stormwater or sewer services conservation assistance.** Adopted November, 1997.

No. 92. Section 1, Article VIII. Re: **State debt.** Adopted November, 1999.

No. 93. Section 1, Article XXIX. Re: **May be invested as authorized by law.** Adopted November, 2000.

No. 94. Section 7, Article IV. Re: **Exchange of judges - Judge pro tempore.** Adopted November, 2001.

No. 95. Section 2, Article VII. Re: **Limitation on levies.** Adopted November, 2002.

No. 96. Section 15, Article II. Re: **Vacancies in legislative and in partisan county elective office.** Adopted November 2003.

No. 97. Section 31, Article IV. Re: **Commission on judicial conduct.** Adopted November, 2005.

No. 98. Section 1, Article VII. Re: **Taxation.** Adopted November 2006.

No. 99. Section 12, Article VII. Re: **Budget stabilization account.** Adopted November 2007.

No. 100. Section 29, Article II. Re: **Convict labor.** Adopted November 2007.

No. 101. Section 2, Article VII. Re: **Limitation of levies.** Adopted November 2007.

No. 102. Section 6, Article XVI. Re: **Investment of higher education permanent funds.** Adopted November 2007.

No. 103. Section 1, Article VIII. Re: **State debt.** Adopted November 2010.

No. 104. Section 20, Article I. Re: **Bail, when authorized.** Adopted November 2010.

No. 105. Section 1A, Article VI. Re: **Voter qualifications for presidential elections.** Adopted November 2011.

No. 106. Section 12, Article VII. Re: **Budget stabilization account.** Adopted November 2011.