

FIFTY FOURTH DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, March 7, 2014

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Gabriel Munson and Marialena Patrick, presented the Colors. Pastor Dan Sailer of Stanwood United Methodist Church offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES
 GUBERNATORIAL APPOINTMENTS

March 6, 2014

SGA 9225 NANCY BIERY, appointed on April 10, 2013, for the term ending July 15, 2015, as Member of the Salmon Recovery Funding Board. Reported by Committee on Natural Resources & Parks

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Pearson, Chair; Dansel; Kline; Liias, Ranking Member.

Passed to Committee on Rules for second reading.

March 6, 2014

SGA 9245 ELIZABETH W BLOOMFIELD, appointed on January 1, 2014, for the term ending December 31, 2016, as Member of the Recreation and Conservation Funding Board. Reported by Committee on Natural Resources & Parks

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Pearson, Chair; Dansel; Kline; Liias, Ranking Member.

Passed to Committee on Rules for second reading.

March 6, 2014

SGA 9247 BOB BUGERT, appointed on August 5, 2013, for the term ending July 15, 2017, as Member of the Salmon Recovery Funding Board. Reported by Committee on Natural Resources & Parks

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Pearson, Chair; Dansel; Kline; Liias, Ranking Member.

Passed to Committee on Rules for second reading.

March 6, 2014

SGA 9261 LORETTA S DEKAY, appointed on July 8, 2013, for the term ending June 12, 2017, as Member of the Columbia River Gorge Commission. Reported by Committee on Natural Resources & Parks

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Pearson, Chair; Dansel; Kline; Liias, Ranking Member.

Passed to Committee on Rules for second reading.

March 6, 2014

SGA 9294 PETER M MAYER, appointed on January 1, 2014, for the term ending December 31, 2016, as Member of the Recreation and Conservation Funding Board. Reported by Committee on Natural Resources & Parks

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Pearson, Chair; Dansel; Kline; Liias, Ranking Member.

Passed to Committee on Rules for second reading.

March 6, 2014

SGA 9306 DOUGLAS D PETERS, appointed on October 1, 2013, for the term ending December 31, 2018, as Member of the Parks and Recreation Commission. Reported by Committee on Natural Resources & Parks

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Pearson, Chair; Dansel; Kline; Liias, Ranking Member.

Passed to Committee on Rules for second reading.

MOTION

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

MOTION

On motion of Senator Fain, the Senate advanced to the third order of business.

MESSAGE FROM GOVERNOR
 GUBERNATORIAL APPOINTMENTS

February 28, 2014

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

KATRINA ASAY, appointed February 3, 2014, for the term ending December 31, 2017, as Member of the Public Disclosure Commission.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Governmental Operations.

February 13, 2014

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

KEN BOUNDS, appointed February 3, 2014, for the term ending December 31, 2018, as Member of the Parks and Recreation Commission.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Natural Resources & Parks.

February 26, 2014

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

RUSSELL D. HAUGE, reappointed February 10, 2012, for the term ending August 2, 2014, as Member of the Sentencing Guidelines Commission.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Law & Justice.

February 18, 2014

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JUDY KUSCHEL, appointed February 3, 2014, for the term ending December 31, 2014, as Member of the Investment Board.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Ways & Means.

February 27, 2014

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

TRE MAXIE, appointed March 11, 2013, for the term ending January 12, 2017, as Member of the State Board of Education.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Early Learning & K-12 Education.

February 26, 2014

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

SUSAN L. MILLER, appointed March 24, 2014, for the term ending January 1, 2019, as Member of the Personnel Resources Board.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Commerce & Labor.

February 19, 2014

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

JENNIFER RANCOURT, reappointed October 16, 2013, for the term ending September 25, 2017, as Member of the Clemency and Pardons Board.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Human Services & Corrections.

February 25, 2014

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

STANLEY J RUMBAUGH, appointed September 23, 2013, for the term ending August 2, 2016, as Member of the Sentencing Guidelines Commission.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Law & Justice.

March 3, 2014

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

TAMMIE J. SCHRADER, appointed February 19, 2014, for the term ending September 30, 2017, as Member of the Professional Educator Standards Board.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Early Learning & K-12 Education.

MOTION

On motion of Senator Fain, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House has adopted:

HOUSE CONCURRENT RESOLUTION NO. 4416, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

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Referred to Committee on Ways & Means.

March 6, 2014

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 2798,
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5310,
SENATE BILL NO. 6035,
SUBSTITUTE SENATE BILL NO. 6124,
SUBSTITUTE SENATE BILL NO. 6273,
SENATE BILL NO. 6405,
SUBSTITUTE SENATE BILL NO. 6442,
SUBSTITUTE SENATE BILL NO. 6446,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5999,
SENATE BILL NO. 6093,
SUBSTITUTE SENATE BILL NO. 6333,
SUBSTITUTE SENATE JOINT MEMORIAL NO. 8007,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING OF HOUSE BILLS

2SHB 2041 by House Committee on Transportation (originally sponsored by Representatives Clibborn, Moscoso, Fey, Fitzgibbon, Carlyle, Tarleton, Upthegrove, Orwall, Farrell and Tharinger)

AN ACT Relating to repealing the deduction for handling losses of motor vehicle fuel; repealing RCW 82.36.029 and 82.38.083; and providing an effective date.

Referred to Committee on Transportation.

EHB 2335 by Representatives Roberts, Parker, Kagi, Carlyle, Freeman, Goodman, Walsh, Sawyer, Senn, Zeiger, Jinkins, Muri, Reykdal and Ormsby

AN ACT Relating to extended foster care services; amending RCW 13.34.267; reenacting and amending RCW 74.13.031; and providing an effective date.

2SHB 2517 by House Committee on Appropriations Subcommittee on General Government & Information Technology (originally sponsored by Representatives Blake, Kretz and Buys)

AN ACT Relating to wildlife conflict funding to encourage proactive measures; amending RCW 77.36.070; adding a new section to chapter 77.36 RCW; and creating a new section.

Referred to Committee on Ways & Means.

HB 2794 by Representatives Hunter, Ryu, Tarleton, Jinkins, Pollet and Roberts

AN ACT Relating to adjusting the state expenditure limit to accommodate enhancements to the prototypical school funding formula; and amending RCW 43.135.034.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Fain, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

On motion of Senator Fain, pursuant to Rule 18, Substitute House Bill No. 2373, enacting provisions to improve educational outcomes for homeless students, was named a special order to be considered at 4:59 p.m.

MOTION

On motion of Senator Fain, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

On motion of Senator Fain, the Senate advanced to the eighth order of business.

MOTION

Senator Baumgartner moved adoption of the following resolution:

SENATE RESOLUTION
8715

By Senators Baumgartner, Fain, Schoesler, Parlette, Brown, Billig, Ericksen, and Holmquist Newbry

WHEREAS, The 1915 Washington State College football team compiled a record of seven victories and zero defeats; and

WHEREAS, The 1915 Washington State College football team allowed only one opponent touchdown all year and is still revered as

one of the most dominate defensive college football teams in West Coast history; and

WHEREAS, The 1915 Washington State College football team was invited to the January 1, 1916, Tournament of Roses Football game to play Brown College in a nationally anticipated matchup of East vs. West football powers; and

WHEREAS, The Washington State College team defeated Brown by a margin of 14-0; and

WHEREAS, Despite days of rain, hours of snow, inches of mud, and palm tree withering cold temperatures, Brown could not stop the Washington State College team from racking up 313 yards of rushing as well as earning 19 first downs; and

WHEREAS, Cougar Running Back, Carl Dietz, rushed 33 times for 105 yards, one touchdown later was named the 1916 Rose Bowl MVP, and was since forth declared Washington State College's greatest athlete of all time; and

WHEREAS, After kicking both extra points in the Rose Bowl game, Cougar Quarterback Thomas Arthur "Bull" Durham successfully served in the United States Navy, earning the prestigious rank of Commodore; and

WHEREAS, The Washington State College team became the first West Coast school to win a Rose Bowl and earned the title of National Champions, giving Washington State the longest standing winning tradition on the West Coast; and

WHEREAS, The Washington State College team was coached by the legendary "Lone Star" Dietz, who played at Carlisle Indian Academy and is a member of the College Football Hall of Fame; and

WHEREAS, National anticipation for the 1916 Tournament of Roses Football Championship and for the Washington State College victory helped restore the nation's faith in college football and put an end to the practice of celebrating the Pasadena Tournament of Roses with events such as ostrich races, polo matches, and chariot races, beginning the annual tradition of the Rose Bowl Football Championship, the granddaddy bowl game of them all;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the 99th anniversary of the 1915 Washington State College Football Rose Bowl and National Champion football team; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Washington State University, The Washington State University Alumni Association, and Washington State Cougars worldwide.

Senators Baumgartner and Parlette spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8715.

The motion by Senator Baumgartner carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Head Coach Mike Leach, Washington State University Football, who was seated at the rostrum.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mr. Dave Emerick, Senior Associate Athletic Director and Chief of Staff, WSU Football who was seated in the gallery.

With permission of the Senate, business was suspended to allow Coach Leach to make remarks.

REMARKS BY COACH MIKE LEACH

Coach Mike Leach: "Thank you. Well, thanks a lot. I'm honored to be here. In preparation, knowing that I was going to be at the Capitol, I watched 'Mr. Smith Goes to Washington.' So if I understand correctly, I stay up here until I collapse. Despite the fact that this is such a busy time for you I really appreciate your having me and I appreciate everything you do the people of the State of Washington and this country, for education, for Washington State University. We plan to put a team out there that everybody can be proud of. Thanks so much for having me."

MOTION

On motion of Senator Fain, the Senate reverted to the seventh order of business.

THIRD READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rivers moved that Philip A Parker, Gubernatorial Appointment No. 9304, be confirmed as a member of the Transportation Commission.

Senators Rivers and Cleveland spoke in favor of passage of the motion.

APPOINTMENT OF PHILIP A PARKER

The President declared the question before the Senate to be the confirmation of Philip A Parker, Gubernatorial Appointment No. 9304, as a member of the Transportation Commission.

The Secretary called the roll on the confirmation of Philip A Parker, Gubernatorial Appointment No. 9304, as a member of the Transportation Commission and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Philip A Parker, Gubernatorial Appointment No. 9304, having received the constitutional majority was declared confirmed as a member of the Transportation Commission.

MOTION

On motion of Senator Fain, the Senate reverted to the sixth order of business.

MOTION

On motion of Senator Billig, Senator Nelson was excused.

SECOND READING

HOUSE BILL NO. 1360, by Representatives Wylie and Harris

Extending the deadline to designate one or more industrial land banks.

The measure was read the second time.

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MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 1360 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Benton and Hasegawa spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1360.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1360 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Excused: Senator Nelson

HOUSE BILL NO. 1360, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2353, by House Committee on Judiciary (originally sponsored by Representatives Rodne and Haler)

Concerning actions for trespass upon a business owner's premises.

The measure was read the second time.

MOTION

Senator Darneille moved that the following amendment by Senator Darneille be adopted:

On page 2, after line 2, insert the following:

"(4) A business owner may not bring an action for trespass under this section that infringes upon a person's civil right to full enjoyment of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement under chapter 49.60.030 RCW."

POINT OF ORDER

Senator Padden: "Thank you Mr. President. I would challenge the scope and object of this amendment. The act adds a new section to chapter 4.24. The amendment does not deal with that section at all. It deals with 49.60.030. 49.60 so I clearly believe it's beyond the scope of the title."

Senator Darneille spoke against the point of order.

MOTION

On motion of Senator Fain, further consideration of Engrossed Substitute House Bill No. 2353 was deferred and the bill held its place on the second reading calendar.

SECOND READING

HOUSE BILL NO. 2359, by Representatives Kochmar, Fagan, Vick, Hurst, Kirby, Morrell, Orwall, Dahlquist, Tarleton and Freeman

Exempting collectible vehicles from emission test requirements.

The measure was read the second time.

MOTION

On motion of Senator King, the rules were suspended, House Bill No. 2359 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2359.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2359 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Excused: Senator Nelson

HOUSE BILL NO. 2359, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2519, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Senn, Walsh, Kagi, Hunter, Roberts, Tharinger, Haigh, Goodman and Freeman)

Concerning early education for children involved in the child welfare system.

The measure was read the second time.

MOTION

Senator Rivers moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 26.44 RCW to read as follows:

(1) The family assessment response worker must assess for child safety and child well-being when collaborating with a family to determine the need for child care, preschool, or home visiting services and, as appropriate, the family assessment response worker must refer children to preschool programs that are enrolled in the early achievers program and rate at a level 3, 4, or 5 unless:

(a) The family lives in an area with no local preschool programs that rate at a level 3, 4, or 5 in the early achievers program;

(b) The local preschool programs that rate at a level 3, 4, or 5 in the early achievers program are not able to meet the needs of the child; or

(c) The child is attending a preschool program prior to participating in family assessment response and the parent or caregiver does not want the child to change preschool programs.

(2) The family assessment response worker may make child care referrals for nonschool-aged children to licensed child care programs that rate at a level 3, 4, or 5 in the early achievers program described in RCW 43.215.100 unless:

(a) The family lives in an area with no local programs that rate at level 3, 4, or 5 in the early achievers program;

(b) The local child care programs that rate at a level 3, 4, or 5 in the early achievers program are not able to meet the needs of the child; or

(c) The child is attending a child care program prior to participating in family assessment response and the parent or caregiver does not want the child to change child care programs.

(3) The family assessment response worker shall, when appropriate, provide referrals to high quality child care and early learning programs.

(4) The family assessment response worker shall, when appropriate, provide referrals to state and federally subsidized programs such as, but not limited to, licensed child care programs that receive state subsidy pursuant to RCW 43.215.135; early childhood education and assistance programs; head start programs; and early head start programs.

(5) Prior to closing the family assessment response case, the family assessment response worker must, when appropriate, discuss child care and early learning services with the child's parent or caregiver.

If the family plans to use child care or early learning services, the family assessment response worker must work with the family to facilitate enrollment.

NEW SECTION. Sec. 2. No later than December 31, 2014, the department of social and health services and the department of early learning shall jointly develop recommendations on methods by which the department of social and health services and the department of early learning can better partner to ensure children involved in the child welfare system have access to early learning services and developmentally appropriate child care services and report these recommendations to the governor and appropriate legislative committees.

Sec. 3. RCW 43.215.405 and 2013 2nd sp.s. c 16 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through ~~((43.215.450, 43.215.455, 43.215.456,))~~ 43.215.457~~((;))~~ and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(3) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(4) "Department" means the department of early learning.

(5)(a) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services; a child eligible for special education due to disability under RCW 28A.155.020; and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(b) Subject to the availability of appropriations specifically for this purpose, the department may include as an eligible child, a child who is not otherwise receiving services under (a) of this subsection, but is receiving child protective services under RCW 26.44.020(3), or family assessment response services under RCW 26.44.260. If included as an eligible child, these children shall receive priority services under (a) of this subsection.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

Sec. 4. RCW 43.215.405 and 2014 c . . . s 3 (section 3 of this act) are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.457 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(3) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(4) "Department" means the department of early learning.

(5)((a)) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services; a child eligible for special education due to disability under RCW 28A.155.020; and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

((b) Subject to the availability of appropriations specifically for this purpose, the department may include as an eligible child, a child

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who is not otherwise receiving services under (a) of this subsection, but is receiving child protective services under RCW 26.44.020(3), or family assessment response services under RCW 26.44.260. If included as an eligible child, these children shall receive priority services under (a) of this subsection.)

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

NEW SECTION. Sec. 5. Section 4 of this act takes effect June 30, 2018."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2519.

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

MOTION

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

On page 1, line 2 of the title, after "programming;" strike the remainder of the title and insert "amending RCW 43.215.405 and 43.215.405; adding a new section to chapter 26.44 RCW; creating a new section; and providing an effective date."

MOTION

On motion of Senator Rivers, the rules were suspended, Engrossed Substitute House Bill No. 2519 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rivers and McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2519 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2519 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 1; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Rivers, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Dansel and Padden

Absent: Senator Roach

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2519 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

REMARKS BY THE PRESIDENT

President Owen: "So, clearly there's some curiosity out there about what's going on here. We have a very, very important component of the Seattle Seahawks with us this morning. This is Taima. Taima the Hawk and he is with Dave Knutson, owner of Taima. Let me tell you a little bit about it. The newest member of the Seahawks family is Taima the Hawk, named by Seahawks fans. Taima, which means 'thunder,' is quickly becoming a fixture of the Seahawks Sunday at Century Link Field. Since 2007 Taima has been the first one out of the tunnel leading the team onto the field before each home game and has given my beautiful wife a kiss on the cheek as a matter of fact. A Hawk fact: He was hatched April 21, 2005 in the hospital at the World Bird Sanctuary in St. Louis; the species is Augur Hawk (Buteo Hawk); the wing span is approximately 4'5". It is absolutely beautiful. Would you like to share anything about it?"

REMARKS BY DAVE KNUTSON

Dave Knutson: "We've had so much fun, this is my eleventh season working with the Seahawks. This is Taima's ninth season that we just finished up and to be able to go to a Super Bowl and represent the Seahawks and be there for that big win was probably the highlight of our football and Seahawk. Taima the Hawk career. We visit with so many fans at the games and that's one funnest part of what we do. It's gratifying to be able to meet the fans. The fans can get pictures with him. They can touch him, pet him, spend time with him and just see how calm he is at the games and then watch him fly out of the tunnel from my wife Robin, over here, her hand out, to me out at the forty yard line with all that craziness with the loudest fans in the world, the loudest stadium in the world and he flies right out to me. He leads the team out. He's the first Hawk out of the tunnel. Go Hawks."

REMARKS BY THE PRESIDENT

President Owen: "So, Dave and Robin, who I forgot. I'm sorry. I did not see you there. If you take a look around here we have had famous people in here from all over the place. We've had great football players. We've had distinguished guests. That's the most cameras I've seen out at one time for you there. Also, a good friend of ours who's been down here in the past is Mike Flood who is Vice President of Community Relations for that incredible football team, the Seattle Seahawks. So, welcome to all of you and thank you for coming by."

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2151, by House Committee on Environment (originally sponsored by Representatives Blake and Seaquist)

Concerning recreational trails.

The measure was read the second time.

MOTION

On motion of Senator Pearson, the rules were suspended, Engrossed Substitute House Bill No. 2151 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pearson and Liias spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2151.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2151 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senator Holmquist Newbry

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2151, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2433, by House Committee on Local Government (originally sponsored by Representatives Habib and Ryu)

Requiring a city or town to notify light and power businesses and gas distribution businesses of annexed areas and affected properties.

The measure was read the second time.

MOTION

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 2433 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2433.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2433 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SUBSTITUTE HOUSE BILL NO. 2433, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2310, by House Committee on Health Care & Wellness (originally sponsored by Representatives Riccelli, Cody, Green, Van De Wege, Tharinger, Morrell, Johnson, Parker, Stonier, Reykdal, Jinkins and Kochmar)

Concerning safety equipment for individual providers.

The measure was read the second time.

MOTION

On motion of Senator Becker, the rules were suspended, Substitute House Bill No. 2310 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Becker, Hargrove and Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2310.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2310 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SUBSTITUTE HOUSE BILL NO. 2310, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2457, by House Committee on Appropriations (originally sponsored by Representatives Hansen, Smith, Fagan, Springer, Rodne, Reykdal, Magendanz, Fitzgibbon, Vick, Lytton, Wilcox, Pollet, Tharinger, Ryu, Van De Wege, Buys and Hayes)

Concerning derelict and abandoned vessels.

The measure was read the second time.

MOTION

Senator Pearson moved that the following committee striking amendment by the Committee on Natural Resources & Parks be not adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that section 45, chapter 291, Laws of 2013 required the department of natural resources, in consultation with the department of ecology, to evaluate potential changes to laws and rules related to derelict and

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abandoned vessels that increase vessel owner responsibility and address challenges associated with the economics of removing vessels from the water.

(2) The legislature further finds that, during the 2013 legislative interim, the two responsible agencies engaged in a thorough process to satisfy their legislative charge. This process involved exhausting in-state expertise on various topics and reaching out to experts in vessel deconstruction, surety bonding, letters of credit, marine insurance, taxation, federal regulation, similar programs in other states, and more. The process also involved two open invitation public meetings.

(3) The legislature further finds that a significant number of various and competing options were discussed, analyzed, and ultimately dismissed during the process undertaken by the two agencies. It is the intent of the legislature to capture the recommendations for meeting the goals of increased vessel owner responsibility and addressing the challenges associated with the economics of removing vessels from the water that rose to the top from the process undertaken by the agencies.

(4) It is the further intent of the legislature that this act serve as the final report due by the department of natural resources under section 45, chapter 291, Laws of 2013.

Part One--Vessel Owner Responsibility

NEW SECTION. Sec. 101. A new section is added to chapter 79.100 RCW to read as follows:

(1) Any individual or company that purchases or otherwise receives a used vessel greater than sixty-five feet in length and more than forty years old must, prior to or concurrent with the transfer of ownership, secure a marine insurance policy consistent with this section. Proof of the marine insurance policy must be provided to:

- (a) The transferor of the vessel upon purchase; and
- (b) If applicable, the department of licensing upon registration or the department of revenue upon the payment of any taxes.

(2) The transferor of a vessel greater than sixty-five feet in length and more than forty years old has an affirmative duty to ensure that any potential transferee has secured a marine insurance policy consistent with this section prior to or concurrent with the finalization of any sale. Nothing in this section prohibits the sale or other transfer of a vessel greater than sixty-five feet in length and more than forty years old to a transferee that fails to secure a marine insurance policy. However, a transferor that chooses to finalize a sale or other transfer with a transferee not in possession of a marine insurance policy assumes secondary liability for the vessel consistent with RCW 79.100.060 if the vessel is later abandoned by the transferee or becomes derelict prior to a subsequent ownership transfer.

(3) The marine insurance policy required under this section must be secured by the transferee prior to, or concurrent with, assuming ownership of a vessel greater than sixty-five feet in length and more than forty years old. The marine insurance policy must satisfy the following conditions:

- (a) Have a term of at least twelve months following the transferee's assumption of vessel ownership;
- (b) Provide coverage of an amount that is, unless otherwise provided by the department by rule, at least three hundred thousand dollars;
- (c) Provide, unless otherwise provided by the department by rule, coverage for the removal of the vessel if it should sink and coverage should it cause a pollution event.

(4) The purchaser of marine insurance under this section may satisfy the requirements of this section through the purchase of multiple policies as necessary.

(5) The department may, by rule, provide for a purchaser of a vessel to also satisfy the insurance requirements of this section through the posting of adequate security with a financial institution.

(6) A person required to secure marine insurance or show proof of marine insurance under this section who either: (a) Fails to secure a marine insurance policy consistent with this section prior to or concurrent with the transfer of ownership; or (b) cancels a marine insurance policy consistent with this section prior to the end of the twelfth month of vessel ownership or to a subsequent transfer of ownership, whichever occurs first, without securing another marine insurance policy consistent with this section in its place, is guilty of a misdemeanor. The department may contact any vessel owner required by this section to have a marine insurance policy to ensure compliance with this section.

Sec. 102. RCW 79.100.150 and 2013 c 291 s 38 are each amended to read as follows:

(1) A vessel owner must obtain a vessel inspection under this section prior to transferring a vessel that is:

- (a) More than sixty-five feet in length and more than forty years old; and
- (b) Either:
 - (i) Is registered or required to be registered under chapter 88.02 RCW; or
 - (ii) Is listed or required to be listed under chapter 84.40 RCW.

(2) If the vessel inspection determines the vessel is not seaworthy and the value of the vessel is less than the anticipated costs required to return the vessel to seaworthiness, then the vessel owner may not sell or transfer ownership of the vessel unless:

- (a) The vessel is repaired to a seaworthy state prior to the transfer of ownership; or
- (b) The vessel is sold for scrap, salvage, restoration to a seaworthy state, or another use that will remove the vessel from state waters.

(3) Where required under subsection (1) of this section, a vessel owner must provide a copy of the vessel inspection documentation to the transferee and, if the department did not conduct the inspection, to the department prior to the transfer.

~~((3))~~ (4) Unless rules adopted by the department provide otherwise, the vessel inspection required under this section must be contained in a formal marine survey conducted by a third party to the transaction. The survey must include, at a minimum, a conclusion relating to the seaworthiness of the vessel, an estimate of the vessel's fair market value, and, if applicable, an estimate as to the anticipated cost of repairs necessary to return the vessel to seaworthiness.

(5) The department may, by rule, allow other forms of vessel condition determinations, such as United States coast guard certificates of inspection, to replace the requirements for a formal marine survey under this section.

(6) Failure to comply with the requirements of ~~((subsections (1) and (2) of))~~ this section will result in the transferor having secondary liability under RCW 79.100.060 if the vessel is later abandoned by the transferee or becomes derelict prior to a subsequent ownership transfer.

(7) Nothing in this section prevents a vessel owner from removing, dismantling, and lawfully disposing of any vessel lawfully under the vessel owner's control.

Part Two--Authorities and Requirements Applicable to Marinas

Sec. 201. RCW 79.100.130 and 2013 c 291 s 4 are each amended to read as follows:

(1) A private moorage facility owner, as those terms are defined in RCW 88.26.010, may contract with the department or a local

government for the purpose of participating in the derelict vessel removal program.

(2) If a contract is completed under this section, the department or local government shall serve as the authorized public entity for the removal of a derelict or abandoned vessel from the property of the private moorage facility owner. The contract must provide for the private moorage facility owner to be financially responsible for the removal and disposal costs that are not reimbursed by the department as provided under RCW 79.100.100, and any additional reasonable administrative costs incurred by the department or local government during the removal of the derelict or abandoned vessel.

(3) Prior to the commencement of any removal (~~which~~) under this section for which a local government serves as the authorized public entity and that will seek reimbursement from the derelict vessel removal program, the contract and the proposed vessel removal shall be submitted to the department for review and approval. The local government shall use the procedure specified under RCW 79.100.100(~~(6)~~).

(4) If the private moorage facility owner has already seized the vessel under chapter 88.26 RCW and title has reverted to the moorage facility, the moorage facility is not considered the owner under this chapter for purposes of cost recovery for actions taken under this section.

(5)(a) The department and all local governments have discretion as to whether to enter into contracts to serve as the authorized public entity under this section for vessels located at a private moorage facility.

(b) The department may not enter into a contract to serve as the authorized public entity under this section for vessels located at a private moorage facility if the private moorage facility is not in compliance with the mandatory insurance requirements of section 202 of this act.

NEW SECTION. Sec. 202. A new section is added to chapter 88.26 RCW to read as follows:

(1) Every private moorage facility operator must:

(a) Obtain and maintain insurance coverage for the private moorage facility;

(b) Require, as a condition of moorage, all vessels other than transient vessels to provide proof of marine insurance to the moorage facility.

(2) Unless rules adopted by the department of natural resources require otherwise, insurance maintained by private moorage facility operators and required of moored vessels must:

(a) Provide coverage at liability limits of at least three hundred thousand dollars per occurrence; and

(b) Include, at a minimum, general, legal, and pollution liability coverage.

(3) The purchaser of marine insurance under this section may satisfy the requirements of this section through the purchase of multiple policies as necessary.

(4) The requirement under this section for private moorage facility operators to require proof of marine insurance from mooring vessels applies at the time a moorage agreement is entered into and at the time of any renewals of the agreement. The private moorage facility operator is not required to verify independently whether a mooring vessel's insurance policy meets the requirements of this section and is not responsible for any change in insurance coverage applicable to the vessel that occurs after the initial agreement is entered into or in the time period between agreement renewals.

(5) Any private moorage facility operator who fails to satisfy the requirements of this section incurs secondary liability under RCW 79.100.060 for any vessel located at the private moorage facility that meets the definition of derelict vessel or abandoned vessel as those terms are defined in RCW 79.100.010.

NEW SECTION. Sec. 203. A new section is added to chapter 53.08 RCW to read as follows:

(1) Every moorage facility operator must:

(a) Obtain and maintain insurance coverage for the moorage facility;

(b) Require, as a condition of moorage, all vessels other than transient vessels to provide proof of marine insurance to the moorage facility.

(2) Unless rules adopted by the department of natural resources require otherwise, insurance maintained by moorage facility operators and required of moored vessels must:

(a) Provide coverage at liability limits of at least three hundred thousand dollars per occurrence; and

(b) Include, at a minimum, general, legal, and pollution liability coverage.

(3) The purchaser of marine insurance under this section may satisfy the requirements of this section through the purchase of multiple policies as necessary.

(4) The requirement under this section for moorage facility operators to require proof of marine insurance from mooring vessels applies at the time a moorage agreement is entered into and at the time of any renewals of the agreement. The moorage facility operator is not required to verify independently whether a mooring vessel's insurance policy meets the requirements of this section and is not responsible for any change in insurance coverage applicable to the vessel that occurs after the initial agreement is entered into or in the time period between agreement renewals.

(5) Any moorage facility operator who fails to satisfy the requirements of this section incurs secondary liability under RCW 79.100.060 for any vessel located at the moorage facility that meets the definition of derelict vessel or abandoned vessel as those terms are defined in RCW 79.100.010.

Sec. 204. RCW 53.08.310 and 1986 c 260 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section, section 203 of this act, and RCW 53.08.320.

(1) "Port charges" mean charges of a moorage facility operator for moorage and storage, and all other charges owing or to become owing under a contract between a vessel owner and the moorage facility operator, or under an officially adopted tariff including, but not limited to, costs of sale and related legal expenses.

(2) "Vessel" means every species of watercraft or other artificial contrivance capable of being used as a means of transportation on water and which does not exceed two hundred feet in length. "Vessel" includes any trailer used for the transportation of watercraft.

(3) "Moorage facility" means any properties or facilities owned or operated by a moorage facility operator which are capable of use for the moorage or storage of vessels.

(4) "Moorage facility operator" means any port district, city, town, metropolitan park district, or county which owns and/or operates a moorage facility.

(5) "Owner" means every natural person, firm, partnership, corporation, association, or organization, or agent thereof, with actual or apparent authority, who expressly or impliedly contracts for use of a moorage facility.

(6) "Transient vessel" means a vessel using a moorage facility and which belongs to an owner who does not have a moorage agreement with the moorage facility operator. Transient vessels include, but are not limited to: Vessels seeking a harbor of refuge, day use, or overnight use of a moorage facility on a space-as-available basis.

Part Three--Encouraging Vessel Removal and Deconstruction

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NEW SECTION. Sec. 301. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of vessel deconstruction performed at:

- (a) A qualified vessel deconstruction facility; or
- (b) An area over water that has been permitted under section 402 of the clean water act of 1972 (33 U.S.C. Sec. 1342) for vessel deconstruction.

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

(a)(i) "Vessel deconstruction" means permanently dismantling a vessel, including: Abatement and removal of hazardous materials; the removal of mechanical, hydraulic, or electronic components or other vessel machinery and equipment; and either the cutting apart or disposal, or both, of vessel infrastructure. For the purposes of this subsection, "hazardous materials" includes fuel, lead, asbestos, polychlorinated biphenyls, and oils.

(ii) "Vessel deconstruction" does not include vessel modification or repair.

(b) "Qualified vessel deconstruction facility" means structures, including floating structures, that are permitted under section 402 of the clean water act of 1972 (33 U.S.C. Sec. 1342) for vessel deconstruction.

(3) Sellers making tax-exempt sales under this section must obtain from the purchaser 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. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement.

NEW SECTION. Sec. 302. A new section is added to chapter 82.12 RCW to read as follows:

(1) This chapter does not apply to the use of vessel deconstruction services performed at:

- (a) A qualified vessel deconstruction facility; or
- (b) An area over water that has been permitted under section 402 of the federal clean water act of 1972 (33 U.S.C. Sec. 1342) for vessel deconstruction.

(2) The definitions in section 301(2) of this act apply to this section.

NEW SECTION. Sec. 303. A new section is added to chapter 44.28 RCW to read as follows:

(1) This section is the tax preference performance statement for the tax preference contained in sections 301 and 302 of this act. This performance statement is only intended to be used for subsequent evaluation of this tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as intended to induce certain designated behavior by taxpayers as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to decrease the number of abandoned and derelict vessels by providing incentives to increase vessel deconstruction in Washington by lowering the cost of deconstruction. It is the legislature's intent to provide businesses engaged in vessel deconstruction a sales and use tax exemption for sales of vessel deconstruction. This incentive will lower the costs associated with vessel deconstruction and encourage businesses to make investments in vessel deconstruction facilities. Pursuant to chapter 43.136 RCW, the joint legislative audit and review committee must review the sales tax exemptions provided under sections 301 and 302 of this act by December 1, 2018.

(4) If a review finds that the increase in available capacity to deconstruct derelict vessels or a reduction in the average cost to deconstruct vessels has resulted in an increase of the number of

derelict vessels removed from Washington's waters as compared to before the effective date of this section, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee should refer to data kept and maintained by the department of natural resources.

(6) This section expires January 1, 2019.

NEW SECTION. Sec. 304. Sections 301 and 302 of this act take effect October 1, 2014.

Part Four--Revenue to Support the Derelict Vessel Removal Program

NEW SECTION. Sec. 401. (1) The legislature finds that:

(a) Derelict and abandoned vessels are a threat to the safety of the public waterways, an environmental hazard for humans and marine life, and an occupational danger for persons that make their living on the waters of this state;

(b) Derelict vessel removal fees are imposed when recreational vessels are registered with the department of licensing. The accumulation of these fees is sufficient for the removal and disposal of recreational vessels that become derelict or abandoned;

(c) Derelict vessel removal fees do not apply to commercial vessels. Former commercial vessels are among the most costly to remove from Washington waters and to dispose of in an environmentally responsible manner. The costs for removing and disposing of these vessels far exceeds the funding provided by the derelict vessel removal fees paid by recreational vessels;

(d) According to the department of natural resources, as of the effective date of this section, there is a significant backlog of abandoned or derelict vessels that are former commercial vessels; and

(e) The use of general fund revenue to pay for the removal and disposal of derelict or abandoned vessels places an undue burden on the nonboating public and reduces the revenue available to pay for necessary governmental services.

(2) The legislature intends for either the owners or operators, or both, of commercial vessels to pay their fair share for the removal of abandoned or derelict vessels by imposing a fee for the moorage of commercial vessels.

NEW SECTION. Sec. 402. A new section is added to chapter 79.100 RCW to read as follows:

(1)(a) Except as otherwise provided in (b) of this subsection, an annual derelict vessel removal fee is imposed upon all persons required by RCW 84.40.065 to list any ship or vessel with the department of revenue for state property tax purposes.

(b) The derelict vessel removal fee imposed in (a) of this subsection does not apply in any year that a person required to list a ship or vessel does not owe the state property tax levied for collection in that year with respect to that ship or vessel.

(c) The annual derelict vessel removal fee is equal to one dollar per vessel foot measured by extreme length of the vessel, rounded up to the nearest whole foot.

(2) Each year, the department of revenue must include the amount of the derelict vessel removal fee due under this section for that calendar year in the tax statement required in RCW 84.40.065.

(3) The person listing a ship or vessel and the owner of the ship or vessel, if not the same person, are jointly and severally liable for the fee imposed in this section.

(4) The department of revenue must collect the derelict vessel removal fee imposed in this section as provided in RCW 84.56.440.

(5) All derelict vessel removal fees collected under this section must be deposited into the derelict vessel removal account created in RCW 79.100.100.

Sec. 403. RCW 84.56.440 and 2008 c 181 s 511 are each amended to read as follows:

(1) The department of revenue shall collect the derelict vessel removal fee imposed under section 402 of this act and all ad valorem taxes upon ships and vessels listed with the department in accordance with RCW 84.40.065, and all applicable interest and penalties on such taxes and fees. The taxes and derelict vessel removal fee shall be due and payable to the department on or before the thirtieth day of April and shall be delinquent after that date.

(2) If payment of the tax, derelict vessel removal fee, or both, is not received by the department by the due date, there shall be imposed a penalty of five percent of the amount of the unpaid tax and fee; and if the tax ((is)) and fee are not received within thirty days after the due date, there shall be imposed a total penalty of ten percent of the amount of the unpaid tax and fee; and if the tax ((is)) and fee are not received within sixty days after the due date, there shall be imposed a total penalty of twenty percent of the amount of the unpaid tax and fee. No penalty so added shall be less than five dollars.

(3) Delinquent taxes under this section are subject to interest at the rate set forth in RCW 82.32.050 from the date of delinquency until paid. Delinquent derelict vessel removal fees are also subject to interest at the same rate and in the same manner as provided for delinquent taxes under RCW 82.32.050. Interest or penalties collected on delinquent taxes and derelict vessel removal fees under this section shall be paid by the department into the general fund of the state treasury.

(4) If upon information obtained by the department it appears that any ship or vessel required to be listed according to the provisions of RCW 84.40.065 is not so listed, the department shall value the ship or vessel and assess against the owner of the vessel the taxes and derelict vessel removal fees found to be due and shall add thereto interest at the rate set forth in RCW 82.32.050 from the original due date of the tax and fee until the date of payment. The department shall notify the vessel owner by mail of the amount and the same shall become due and shall be paid by the vessel owner within thirty days of the date of the notice. If payment is not received by the department by the due date specified in the notice, the department shall add a penalty of ten percent of the tax and fee found due. A person who willfully gives a false listing or willfully fails to list a ship or vessel as required by RCW 84.40.065 shall be subject to the penalty imposed by RCW 84.40.130(2), which shall be assessed and collected by the department.

(5) Delinquent taxes and fees under this section, along with all penalties and interest thereon, shall be collected by the department according to the procedures set forth in chapter 82.32 RCW for the filing and execution of tax warrants, including the imposition of warrant interest. In the event a warrant is issued by the department for the collection of taxes, derelict vessel removal fees, or both, under this section, the department shall add a penalty of five percent of the amount of the delinquent tax and fee, but not less than ten dollars.

(6) ((The department shall also collect all delinquent taxes pertaining to ships and vessels appearing on the records of the county treasurers for each of the counties of this state as of December 31, 1993, including any applicable interest or penalties. The provisions of subsection (5) of this section shall apply to the collection of such delinquent taxes.

(7)) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may grant extensions of the due date of any taxes and fees payable under this section as the department deems proper.

(7) The department of revenue must withhold the decals required under RCW 88.02.570(10) for failure to pay the state property tax or derelict vessel removal fee collectible under this section.

NEW SECTION. **Sec. 404.** Sections 401 through 403 of this act take effect January 1, 2015.

Part Five--Incentivizing the Registration of Moored Vessels

NEW SECTION. **Sec. 501.** A new section is added to chapter 88.02 RCW to read as follows:

(1) A moorage provider that provides long-term moorage must obtain the following information and documentation from persons entering into long-term moorage agreements with the moorage provider:

- (a) The name of the legal owner of the vessel;
- (b) A local contact person and that person's address and telephone number, if different than the owner;
- (c) The owner's address and telephone number;
- (d) The vessel's hull identification number;
- (e) If applicable, the vessel's coast guard registration;
- (f) The vessel's home port;
- (g) The date on which the moorage began;
- (h) The vessel's country or state of registration and registration number; and

(i) Proof of vessel registration, a written statement of the lessee's intent to register a vessel, or an affidavit in a form and manner approved by the department certifying that the vessel is exempt from state vessel registration requirements as provided by RCW 88.02.570.

(2) For moorage agreements entered into effective on or after July 1, 2014, a long-term moorage agreement for vessels not registered in this state must include, in a form and manner approved by the department and the department of revenue, notice of state vessel registration requirements as provided by this chapter and tax requirements as provided by chapters 82.08, 82.12, and 82.49 RCW and listing requirements as provided by RCW 84.40.065.

(3) A moorage provider must maintain records of the information and documents required under this section for at least two years. Upon request, a moorage provider must:

(a) Permit any authorized agent of a requesting agency to:

(i) Inspect the moorage facility for vessels that are not registered as required by this chapter or listed as required under RCW 84.40.065; and

(ii) Inspect and copy records identified in subsection (1) of this section for vessels that the requesting agency determines are not properly registered or listed as required by law; or

(b) Provide to the requesting agency:

(i) Information as provided in subsection (1)(a), (c), (d), and (e) of this section; and

(ii) Information as provided in subsection (1)(b), (f), (g), (h), and (i) of this section for those vessels that the requesting agency subsequently determines are not registered as required by this chapter or listed as required under RCW 84.40.065.

(4) Requesting agencies must coordinate their requests to ensure that a moorage provider does not receive more than two requests per calendar year. For the purpose of enforcing vessel registration and vessel listing requirements, requesting agencies may share the results of information requests with each other.

(5) The information required to be collected under this section must be collected at the time the long-term moorage agreement is entered into and at the time of any renewals of the agreement. The moorage provider is not responsible for updating any changes in the information that occurs after the initial agreement is entered into or in the time period between agreement renewals.

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(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Long-term moorage" means moorage provided for more than thirty consecutive days.

(b) "Moorage facility" means any properties or facilities located in this state that are used for the moorage of vessels and are owned or operated by a moorage provider.

(c) "Moorage facility operator" has the same meaning as defined in RCW 53.08.310.

(d) "Moorage provider" means any public or private entity that owns or operates any moorage facility, including a moorage facility operator, private moorage facility operator, the state of Washington, or any other person.

(e) "Private moorage facility operator" has the same meaning as defined in RCW 88.26.010.

(f) "Requesting agency" means the department, the department of revenue, or the department of natural resources.

NEW SECTION. Sec. 502. A new section is added to chapter 82.49 RCW to read as follows:

(1) An owner of a vessel that is not registered as required by chapter 88.02 RCW and for which watercraft excise tax is due under this chapter is liable for a penalty in the following amount:

(a) One hundred dollars for the owner's first violation;

(b) Two hundred dollars for the owner's second violation involving the same or any other vessel; or

(c) Four hundred dollars for the owner's third and successive violations involving the same or any other vessel.

(2) The department of revenue may collect this penalty under the procedures established in chapter 82.32 RCW. The penalty imposed under this section is in addition to any other civil or criminal penalty imposed by law.

Sec. 503. RCW 82.49.010 and 2010 c 161 s 1044 are each amended to read as follows:

(1) An excise tax is imposed for the privilege of using a vessel upon the waters of this state, except vessels exempt under RCW 82.49.020. The annual amount of the excise tax is one-half of one percent of fair market value, as determined under this chapter, or five dollars, whichever is greater. Violation of this subsection is a misdemeanor.

(2) ~~((Persons who are))~~ A person who is required under chapter 88.02 RCW to register a vessel in this state and who fails to register the vessel in this state or registers the vessel in another state or foreign country and avoids the Washington watercraft excise tax ~~((are))~~ is guilty of a gross misdemeanor and ~~((are))~~ is liable for such unpaid excise tax. The department of revenue may assess and collect the unpaid excise tax under chapter 82.32 RCW, including the penalty imposed in section 502 of this act and penalties and interest provided in chapter 82.32 RCW.

(3) The excise tax upon a vessel registered for the first time in this state shall be imposed for a twelve-month period, including the month in which the vessel is registered, unless the director of licensing extends or diminishes vessel registration periods for the purpose of staggered renewal periods under RCW 88.02.560. A vessel is registered for the first time in this state when the vessel was not registered in this state for the immediately preceding registration year, or when the vessel was registered in another jurisdiction for the immediately preceding year.

Part Six--Miscellaneous and Technical

Sec. 601. RCW 79.100.060 and 2013 c 291 s 40 are each amended to read as follows:

(1) The owner of an abandoned or derelict vessel, or any person or entity that has incurred secondary liability ~~((under RCW 79.100.150))~~ for an abandoned or derelict vessel under this chapter

or section 202 or 203 of this act, is responsible for reimbursing an authorized public entity for all reasonable and auditable costs associated with the removal or disposal of the owner's vessel under this chapter. These costs include, but are not limited to, costs incurred exercising the authority granted in RCW 79.100.030, all administrative costs incurred by the authorized public entity during the procedure set forth in RCW 79.100.040, removal and disposal costs, and costs associated with environmental damages directly or indirectly caused by the vessel. An authorized public entity that has taken temporary possession of a vessel may require that all reasonable and auditable costs associated with the removal of the vessel be paid before the vessel is released to the owner.

(2) Reimbursement for costs may be sought from an owner, or any person or entity that has incurred secondary liability under ~~((RCW 79.100.150))~~ this chapter or section 202 or 203 of this act, who is identified subsequent to the vessel's removal and disposal.

(3) If the full amount of all costs due to the authorized public entity under this chapter is not paid to the authorized public entity within thirty days after first notifying the responsible parties of the amounts owed, the authorized public entity or the department may bring an action in any court of competent jurisdiction to recover the costs, plus reasonable attorneys' fees and costs incurred by the authorized public entity.

Sec. 602. RCW 79.100.120 and 2013 c 291 s 32 are each amended to read as follows:

(1) ~~((A person))~~ (a) An owner or lien holder seeking to contest an authorized public entity's decision to take temporary possession or custody of a vessel under this chapter, or to contest the amount of reimbursement owed to an authorized public entity under this chapter, may request a hearing in accordance with this section.

(b) A transferor with secondary liability under this chapter or section 202 or 203 of this act may commence a lawsuit in the superior court for the county in which custody of the vessel was taken to contest the transferor's liability or the amount of reimbursement owed the authorized public entity under this chapter.

(2)(a) If the contested decision or action was undertaken by a state agency, a written request for a hearing related to the decision or action must be filed with the pollution control hearings board and served on the state agency in accordance with RCW 43.21B.230 (2) and (3) within thirty days of the date the authorized public entity acquires custody of the vessel under RCW 79.100.040, or if the vessel is redeemed before the authorized public entity acquires custody, the date of redemption, or the right to a hearing is deemed waived and the vessel's owner is liable for any costs owed the authorized public entity. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

(b) Upon receipt of a timely hearing request, the pollution control hearings board shall proceed to hear and determine the validity of the decision to take the vessel into temporary possession or custody and the reasonableness of any towing, storage, or other charges permitted under this chapter. Within five business days after the request for a hearing is filed, the pollution control hearings board shall notify the vessel owner requesting the hearing and the authorized public entity of the date, time, and location for the hearing. Unless the vessel is redeemed before the request for hearing is filed, the pollution control hearings board shall set the hearing on a date that is within ten business days of the filing of the request for hearing. If the vessel is redeemed before the request for a hearing is filed, the pollution control hearings board shall set the hearing on a date that is within sixty days of the filing of the request for hearing.

(c) Consistent with RCW 43.21B.305, a proceeding brought under this subsection may be heard by one member of the pollution control hearings board, whose decision is the final decision of the board.

(3)(a) If the contested decision or action was undertaken by a metropolitan park district, port district, city, town, or county, which has adopted rules or procedures for contesting decisions or actions pertaining to derelict or abandoned vessels, those rules or procedures must be followed in order to contest a decision to take temporary possession or custody of a vessel, or to contest the amount of reimbursement owed.

(b) If the metropolitan park district, port district, city, town, or county has not adopted rules or procedures for contesting decisions or actions pertaining to derelict or abandoned vessels, then ((a person)) an owner or lien holder requesting a hearing under this section must follow the procedure established in subsection (2) of this section.

Sec. 603. RCW 79.100.100 and 2013 c 291 s 2 are each amended to read as follows:

(1)(a) The derelict vessel removal account is created in the state treasury. All receipts from RCW 79.100.050 and 79.100.060 and those moneys specified in RCW 88.02.640 must be deposited into the account. The account is authorized to receive fund transfers and appropriations from the general fund, deposits from the derelict vessel removal surcharge under RCW 88.02.640(4), deposits under section 402 of this act, as well as 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 this chapter and expend the same or any income according to the terms of the gifts, grants, or endowments provided those terms do not conflict with any provisions of this section or any guidelines developed to prioritize reimbursement of removal projects associated with this chapter.

(b) Moneys in the account may only be spent after appropriation. Expenditures from the account may only be used by the department for developing and administering the vessel turn-in program created in RCW 79.100.160 and to reimburse authorized public entities for up to ninety percent of the total reasonable and auditable administrative, removal, disposal, and environmental damage costs of abandoned or derelict vessels when the previous owner is either unknown after a reasonable search effort or insolvent. Reimbursement may not be made unless the department determines that the public entity has made reasonable efforts to identify and locate the party responsible for the vessel, or any other person or entity that has incurred secondary liability (under RCW 79.100.150) for the vessel under this chapter or section 202 or 203 of this act, regardless of the title of owner of the vessel.

(c) Funds in the account resulting from transfers from the general fund or from the deposit of funds from the watercraft excise tax as provided for under RCW 82.49.030 must be used to reimburse one hundred percent of costs and should be prioritized for the removal of large vessels.

(d) Costs associated with the removal and disposal of an abandoned or derelict vessel under the authority granted in RCW 53.08.320 also qualify for reimbursement from the derelict vessel removal account.

(e) In each biennium, up to twenty percent of the expenditures from the derelict vessel removal account may be used for administrative expenses of the department of licensing and department of natural resources in implementing this chapter.

(2) Priority for use of this account is for the removal of derelict and abandoned vessels that are in danger of sinking, breaking up, or blocking navigation channels, or that present environmental risks such as leaking fuel or other hazardous substances. The department must develop criteria, in the form of informal guidelines, to prioritize removal projects associated with this chapter, but may not consider whether the applicant is a state or local entity when prioritizing. The guidelines must also include guidance to the authorized public entities as to what removal activities and associated costs are reasonable and eligible for reimbursement.

(3) The department must keep all authorized public entities apprised of the balance of the derelict vessel removal account and the funds available for reimbursement. The guidelines developed by the department must also be made available to the other authorized public entities. This subsection (3) must be satisfied by utilizing the least costly method, including maintaining the information on the department's internet web site, or any other cost-effective method.

(4) An authorized public entity may contribute its ten percent of costs that are not eligible for reimbursement by using in-kind services, including the use of existing staff, equipment, and volunteers.

(5) This chapter does not guarantee reimbursement for an authorized public entity. Authorized public entities seeking certainty in reimbursement prior to taking action under this chapter may first notify the department of their proposed action and the estimated total costs. Upon notification by an authorized public entity, the department must make the authorized public entity aware of the status of the fund and the likelihood of reimbursement being available. The department may offer technical assistance and assure reimbursement for up to two years following the removal action if an assurance is appropriate given the balance of the fund and the details of the proposed action.

Sec. 604. 2013 c 291 s 39 (uncodified) is amended to read as follows:

(1) By December 31, ((2013)) 2014, the department of natural resources shall adopt by rule initial procedures and standards for the vessel inspections required under ((section 38 of this act)) RCW 79.100.150. The procedures and standards must identify the public or private entities authorized to conduct inspections, the required elements of an inspection, and the manner in which inspection results must be documented. The vessel inspection required under this section must be designed to:

(a) Provide the transferee with current information about the condition of the vessel, including the condition of its hull and key operating systems, prior to the transfer;

(b) Provide the department of natural resources with information under (a) of this subsection for each applicable vessel and, more broadly, to improve the department's understanding of the condition of the larger, older boats in the state's waters;

(c) Discourage the future abandonment or dereliction of the vessel; and

(d) Maximize the efficiency and effectiveness of the inspection process, including with respect to the time and resources of the transferor, transferee, and the state.

(2) The department of natural resources shall work with appropriate government agencies and stakeholders in designing the inspection process and standards under this section.

(3) This section expires July 31, ((2014)) 2015.

NEW SECTION. Sec. 605. 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."

On page 1, line 1 of the title, after "vessels;" strike the remainder of the title and insert "amending RCW 79.100.150, 79.100.130, 53.08.310, 84.56.440, 82.49.010, 79.100.060, 79.100.120, and 79.100.100; amending 2013 c 291 s 39 (uncodified); adding new sections to chapter 79.100 RCW; adding a new section to chapter 88.26 RCW; adding a new section to chapter 53.08 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 44.28 RCW; adding a new section to chapter 88.02 RCW; adding a new section to chapter 82.49 RCW; creating new sections; prescribing penalties; providing effective dates; and providing expiration dates."

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The President declared the question before the Senate to be the motion by Senator Pearson to not adopt the committee striking amendment by the Committee on Natural Resources & Parks to Second Substitute House Bill No. 2457.

The motion by Senator Pearson carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Pearson moved that the following striking amendment by Senators Pearson and Liias be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that section 45, chapter 291, Laws of 2013 required the department of natural resources, in consultation with the department of ecology, to evaluate potential changes to laws and rules related to derelict and abandoned vessels that increase vessel owner responsibility and address challenges associated with the economics of removing vessels from the water.

(2) The legislature further finds that, during the 2013 legislative interim, the two responsible agencies engaged in a thorough process to satisfy their legislative charge. This process involved exhausting in-state expertise on various topics and reaching out to experts in vessel deconstruction, surety bonding, letters of credit, marine insurance, taxation, federal regulation, similar programs in other states, and more. The process also involved two open invitation public meetings.

(3) The legislature further finds that a significant number of various and competing options were discussed, analyzed, and ultimately dismissed during the process undertaken by the two agencies. It is the intent of the legislature to capture the recommendations for meeting the goals of increased vessel owner responsibility and addressing the challenges associated with the economics of removing vessels from the water that rose to the top from the process undertaken by the agencies.

(4) It is the further intent of the legislature that this act serve as the final report due by the department of natural resources under section 45, chapter 291, Laws of 2013.

Part One--Vessel Owner Responsibility

NEW SECTION. Sec. 101. A new section is added to chapter 79.100 RCW to read as follows:

(1) Any individual or company that purchases or otherwise receives a used vessel greater than sixty-five feet in length and more than forty years old must, prior to or concurrent with the transfer of ownership, secure a marine insurance policy consistent with this section. Proof of the marine insurance policy must be provided to:

(a) The transferor of the vessel upon purchase or other transfer; and

(b) If applicable, the department of licensing upon registration or the department of revenue upon the payment of any taxes.

(2) The transferor of a vessel greater than sixty-five feet in length and more than forty years old has an affirmative duty to ensure that any potential transferee has secured a marine insurance policy consistent with this section prior to or concurrent with the finalization of any sale or transfer. Nothing in this section prohibits the sale or other transfer of a vessel greater than sixty-five feet in length and more than forty years old to a transferee that fails to secure a marine insurance policy. However, a transferor that chooses to finalize a sale or other transfer with a transferee not in possession of a marine insurance policy assumes secondary liability for the vessel consistent with RCW 79.100.060 if the vessel is later

abandoned by the transferee or becomes derelict prior to a subsequent ownership transfer.

(3) The marine insurance policy required under this section must be secured by the transferee prior to, or concurrent with, assuming ownership of a vessel greater than sixty-five feet in length and more than forty years old. The marine insurance policy must satisfy the following conditions:

(a) Have a term of at least twelve months following the transferee's assumption of vessel ownership;

(b) Provide coverage of an amount that is, unless otherwise provided by the department by rule, at least three hundred thousand dollars;

(c) Provide, unless otherwise provided by the department by rule, coverage for the removal of the vessel if it should sink and coverage should it cause a pollution event.

(4) The purchaser of marine insurance under this section may satisfy the requirements of this section through the purchase of multiple policies as necessary.

(5) The department may, by rule, provide for a purchaser of a vessel to also satisfy the insurance requirements of this section through the posting of adequate security with a financial institution.

(6) A person required to secure marine insurance or show proof of marine insurance under this section who either: (a) Fails to secure a marine insurance policy consistent with this section prior to or concurrent with the transfer of ownership, unless the vessel was sold consistent with RCW 79.100.150(2)(b); or (b) cancels a marine insurance policy consistent with this section prior to the end of the twelfth month of vessel ownership or to a subsequent transfer of ownership, whichever occurs first, without securing another marine insurance policy consistent with this section in its place, is guilty of a misdemeanor. The department may contact any vessel owner required by this section to have a marine insurance policy to ensure compliance with this section.

Sec. 102. RCW 79.100.150 and 2013 c 291 s 38 are each amended to read as follows:

(1) A vessel owner must obtain a vessel inspection under this section prior to transferring a vessel that is:

(a) More than sixty-five feet in length and more than forty years old; and

(b) Either:

(i) Is registered or required to be registered under chapter 88.02 RCW; or

(ii) Is listed or required to be listed under chapter 84.40 RCW.

(2) If the vessel inspection determines the vessel is not seaworthy and the value of the vessel is less than the anticipated costs required to return the vessel to seaworthiness, then the vessel owner may not sell or transfer ownership of the vessel unless:

(a) The vessel is repaired to a seaworthy state prior to the transfer of ownership; or

(b) The vessel is sold for scrap, restoration, salvage, or another use that will remove the vessel from state waters to a person displaying a business license issued under RCW 19.02.070 that a reasonable person in the seller's position would believe has the capability and intent to do based on factors that may include the buyer's facilities, resources, documented intent, and relevant history.

(3) Where required under subsection (1) of this section, a vessel owner must provide a copy of the vessel inspection documentation to the transferee and, if the department did not conduct the inspection, to the department prior to the transfer.

~~((3))~~ (4) Unless rules adopted by the department provide otherwise, the vessel inspection required under this section must be contained in a formal marine survey conducted by a third party to the transaction. The survey must include, at a minimum, a conclusion relating to the seaworthiness of the vessel, an estimate of the vessel's fair market value, and, if applicable, an estimate as to the

anticipated cost of repairs necessary to return the vessel to seaworthiness.

(5) The department may, by rule, allow other forms of vessel condition determinations, such as United States coast guard certificates of inspection, to replace the requirements for a formal marine survey under this section.

(6) Failure to comply with the requirements of ~~((subsections (1) and (2) of))~~ this section will result in the transferor having secondary liability under RCW 79.100.060 if the vessel is later abandoned by the transferee or becomes derelict prior to a subsequent ownership transfer.

(7) Nothing in this section prevents a vessel owner from removing, dismantling, and lawfully disposing of any vessel lawfully under the vessel owner's control.

Part Two--Authorities and Requirements Applicable to Marinas

Sec. 201. RCW 79.100.130 and 2013 c 291 s 4 are each amended to read as follows:

(1) A private moorage facility owner, as those terms are defined in RCW 88.26.010, may contract with the department or a local government for the purpose of participating in the derelict vessel removal program.

(2) If a contract is completed under this section, the department or local government shall serve as the authorized public entity for the removal of a derelict or abandoned vessel from the property of the private moorage facility owner. The contract must provide for the private moorage facility owner to be financially responsible for the removal and disposal costs that are not reimbursed by the department as provided under RCW 79.100.100, and any additional reasonable administrative costs incurred by the department or local government during the removal of the derelict or abandoned vessel.

(3) Prior to the commencement of any removal ~~((which))~~ under this section for which a local government serves as the authorized public entity and that will seek reimbursement from the derelict vessel removal program, the contract and the proposed vessel removal shall be submitted to the department for review and approval. The local government shall use the procedure specified under RCW 79.100.100~~((6))~~.

(4) If the private moorage facility owner has already seized the vessel under chapter 88.26 RCW and title has reverted to the moorage facility, the moorage facility is not considered the owner under this chapter for purposes of cost recovery for actions taken under this section.

(5)(a) The department and all local governments have discretion as to whether to enter into contracts to serve as the authorized public entity under this section for vessels located at a private moorage facility.

(b) The department may not enter into a contract to serve as the authorized public entity under this section for vessels located at a private moorage facility if the private moorage facility is not in compliance with the mandatory insurance requirements of section 202 of this act.

NEW SECTION. Sec. 202. A new section is added to chapter 88.26 RCW to read as follows:

(1) Every private moorage facility operator must:

(a) Obtain and maintain insurance coverage for the private moorage facility;

(b) Require, as a condition of moorage, all vessels other than transient vessels to provide proof of marine insurance to the moorage facility.

(2) Unless rules adopted by the department of natural resources require otherwise, insurance maintained by private moorage facility operators and required of moored vessels must:

(a) Provide coverage at liability limits of at least three hundred thousand dollars per occurrence; and

(b) Include, at a minimum, general, legal, and pollution liability coverage.

(3) The purchaser of marine insurance under this section may satisfy the requirements of this section through the purchase of multiple policies as necessary.

(4) The requirement under this section for private moorage facility operators to require proof of marine insurance from mooring vessels applies whenever a private moorage facility operator enters an initial or renewal moorage agreement after the effective date of this section. The private moorage facility operator is not required to verify independently whether a mooring vessel's insurance policy meets the requirements of this section and is not responsible for any change in insurance coverage applicable to the vessel that occurs after the initial agreement is entered into or in the time period between agreement renewals.

(5) Any private moorage facility operator who fails to satisfy the requirements of this section incurs secondary liability under RCW 79.100.060 for any vessel located at the private moorage facility that meets the definition of derelict vessel or abandoned vessel as those terms are defined in RCW 79.100.010.

NEW SECTION. Sec. 203. A new section is added to chapter 53.08 RCW to read as follows:

(1) Every moorage facility operator must:

(a) Obtain and maintain insurance coverage for the moorage facility;

(b) Require, as a condition of moorage, all vessels other than transient vessels to provide proof of marine insurance to the moorage facility.

(2) Unless rules adopted by the department of natural resources require otherwise, insurance maintained by moorage facility operators and required of moored vessels must:

(a) Provide coverage at liability limits of at least three hundred thousand dollars per occurrence; and

(b) Include, at a minimum, general, legal, and pollution liability coverage.

(3) The purchaser of marine insurance under this section may satisfy the requirements of this section through the purchase of multiple policies as necessary.

(4) The requirement under this section for moorage facility operators to require proof of marine insurance from mooring vessels applies whenever a moorage facility operator enters an initial or renewal moorage agreement after the effective date of this section. The moorage facility operator is not required to verify independently whether a mooring vessel's insurance policy meets the requirements of this section and is not responsible for any change in insurance coverage applicable to the vessel that occurs after the initial agreement is entered into or in the time period between agreement renewals.

(5) Any moorage facility operator that the department has determined has failed to satisfy the requirements of this section is not eligible for reimbursement from the derelict vessel removal account under RCW 79.100.100.

Sec. 204. RCW 88.26.010 and 1993 c 474 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) "Charges" means charges of a private moorage facility operator for moorage and storage, all other charges owing to or that become owing under a contract between a vessel owner and the private moorage facility operator, or any costs of sale and related legal expenses for implementing RCW 88.26.020.

(2) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water. "Vessel" includes any trailer used for the transportation of watercraft.

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(3) "Private moorage facility" means any properties or facilities owned or operated by a private moorage facility operator that are capable of use for the moorage or storage of vessels.

(4) "Private moorage facility operator" means every natural person, firm, partnership, corporation, association, organization, or any other legal entity, employee, or their agent, that owns or operates a private moorage facility. Private moorage facility operation does not include a "moorage facility operator" as defined in RCW 53.08.310.

(5) "Owner" means every natural person, firm, partnership, corporation, association, or organization, or their agent, with actual or apparent authority, who expressly or impliedly contracts for use of a moorage facility.

(6) "Transient vessel" means a vessel using a private moorage facility and that belongs to an owner who does not have a moorage agreement with the private moorage facility operator. Transient vessels include, but are not limited to, vessels seeking a harbor or refuge, day use, or overnight use of a private moorage facility on a space-as-available basis. Transient vessels may also include vessels taken into custody under RCW 79.100.040.

Sec. 205. RCW 53.08.310 and 1986 c 260 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section, section 203 of this act, and RCW 53.08.320.

(1) "Port charges" mean charges of a moorage facility operator for moorage and storage, and all other charges owing or to become owing under a contract between a vessel owner and the moorage facility operator, or under an officially adopted tariff including, but not limited to, costs of sale and related legal expenses.

(2) "Vessel" means every species of watercraft or other artificial contrivance capable of being used as a means of transportation on water and which does not exceed two hundred feet in length. "Vessel" includes any trailer used for the transportation of watercraft.

(3) "Moorage facility" means any properties or facilities owned or operated by a moorage facility operator which are capable of use for the moorage or storage of vessels.

(4) "Moorage facility operator" means any port district, city, town, metropolitan park district, or county which owns and/or operates a moorage facility.

(5) "Owner" means every natural person, firm, partnership, corporation, association, or organization, or agent thereof, with actual or apparent authority, who expressly or impliedly contracts for use of a moorage facility.

(6) "Transient vessel" means a vessel using a moorage facility and which belongs to an owner who does not have a moorage agreement with the moorage facility operator. Transient vessels include, but are not limited to: Vessels seeking a harbor of refuge, day use, or overnight use of a moorage facility on a space-as-available basis. Transient vessels may also include vessels taken into custody under RCW 79.100.040.

Part Three--Encouraging Vessel Removal and Deconstruction

NEW SECTION. Sec. 301. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of vessel deconstruction performed at:

(a) A qualified vessel deconstruction facility; or

(b) An area over water that has been permitted under section 402 of the clean water act of 1972 (33 U.S.C. Sec. 1342) for vessel deconstruction.

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

(a)(i) "Vessel deconstruction" means permanently dismantling a vessel, including: Abatement and removal of hazardous materials; the removal of mechanical, hydraulic, or electronic components or other vessel machinery and equipment; and either the cutting apart or disposal, or both, of vessel infrastructure. For the purposes of this subsection, "hazardous materials" includes fuel, lead, asbestos, polychlorinated biphenyls, and oils.

(ii) "Vessel deconstruction" does not include vessel modification or repair.

(b) "Qualified vessel deconstruction facility" means structures, including floating structures, that are permitted under section 402 of the clean water act of 1972 (33 U.S.C. Sec. 1342) for vessel deconstruction.

(3) Sellers making tax-exempt sales under this section must obtain from the purchaser 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. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement.

NEW SECTION. Sec. 302. A new section is added to chapter 82.12 RCW to read as follows:

(1) This chapter does not apply to the use of vessel deconstruction services performed at:

(a) A qualified vessel deconstruction facility; or

(b) An area over water that has been permitted under section 402 of the federal clean water act of 1972 (33 U.S.C. Sec. 1342) for vessel deconstruction.

(2) The definitions in section 301(2) of this act apply to this section.

NEW SECTION. Sec. 303. (1) This section is the tax preference performance statement for the tax preference contained in sections 301 and 302 of this act. This performance statement is only intended to be used for subsequent evaluation of this tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as intended to induce certain designated behavior by taxpayers as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to decrease the number of abandoned and derelict vessels by providing incentives to increase vessel deconstruction in Washington by lowering the cost of deconstruction. It is the legislature's intent to provide businesses engaged in vessel deconstruction a sales and use tax exemption for sales of vessel deconstruction. This incentive will lower the costs associated with vessel deconstruction and encourage businesses to make investments in vessel deconstruction facilities. Pursuant to chapter 43.136 RCW, the joint legislative audit and review committee must review the sales tax exemptions provided under sections 301 and 302 of this act by December 1, 2018.

(4) If a review finds that the increase in available capacity to deconstruct derelict vessels or a reduction in the average cost to deconstruct vessels has resulted in an increase of the number of derelict vessels removed from Washington's waters as compared to before the effective date of this section, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee should refer to data kept and maintained by the department of natural resources.

(6) This section expires January 1, 2019.

NEW SECTION. Sec. 304. Sections 301 and 302 of this act take effect October 1, 2014.

Part Four--Revenue to Support the Derelict Vessel Removal Program

NEW SECTION. Sec. 401. (1) The legislature finds that:

(a) Derelict and abandoned vessels are a threat to the safety of the public waterways, an environmental hazard for humans and marine life, and an occupational danger for persons that make their living on the waters of this state;

(b) Derelict vessel removal fees are imposed when recreational vessels are registered with the department of licensing. The accumulation of these fees is sufficient for the removal and disposal of recreational vessels that become derelict or abandoned;

(c) Derelict vessel removal fees do not apply to commercial vessels. Former commercial vessels are among the most costly to remove from Washington waters and to dispose of in an environmentally responsible manner. The costs for removing and disposing of these vessels far exceeds the funding provided by the derelict vessel removal fees paid by recreational vessels;

(d) According to the department of natural resources, as of the effective date of this section, there is a significant backlog of abandoned or derelict vessels that are former commercial vessels; and

(e) The use of general fund revenue to pay for the removal and disposal of derelict or abandoned vessels places an undue burden on the nonboating public and reduces the revenue available to pay for necessary governmental services.

(2) The legislature intends for either the owners or operators, or both, of commercial vessels to pay their fair share for the removal of abandoned or derelict vessels by imposing a per foot fee on commercial vessels.

NEW SECTION. Sec. 402. A new section is added to chapter 79.100 RCW to read as follows:

(1)(a) Except as otherwise provided in (b) of this subsection, an annual derelict vessel removal fee is imposed upon all persons required by RCW 84.40.065 to list any ship or vessel with the department of revenue for state property tax purposes.

(b) The derelict vessel removal fee imposed in (a) of this subsection does not apply in any year that a person required to list a ship or vessel does not owe the state property tax levied for collection in that year with respect to that ship or vessel.

(c) The annual derelict vessel removal fee is equal to one dollar per vessel foot measured by extreme length of the vessel, rounded up to the nearest whole foot.

(2) Each year, the department of revenue must include the amount of the derelict vessel removal fee due under this section for that calendar year in the tax statement required in RCW 84.40.065.

(3) The person listing a ship or vessel and the owner of the ship or vessel, if not the same person, are jointly and severally liable for the fee imposed in this section.

(4) The department of revenue must collect the derelict vessel removal fee imposed in this section as provided in RCW 84.56.440.

(5) All derelict vessel removal fees collected under this section must be deposited into the derelict vessel removal account created in RCW 79.100.100.

Sec. 403. RCW 84.56.440 and 2008 c 181 s 511 are each amended to read as follows:

(1) The department of revenue shall collect the derelict vessel removal fee imposed under section 402 of this act and all ad valorem taxes upon ships and vessels listed with the department in accordance with RCW 84.40.065, and all applicable interest and penalties on such taxes and fees. The taxes and derelict vessel removal fee shall be due and payable to the department on or before the thirtieth day of April and shall be delinquent after that date.

(2) If payment of the tax, derelict vessel removal fee, or both, is not received by the department by the due date, there shall be imposed a penalty of five percent of the amount of the unpaid tax and fee; and if the tax ((is)) and fee are not received within thirty days after the due date, there shall be imposed a total penalty of ten percent of the amount of the unpaid tax and fee; and if the tax ((is)) and fee are not received within sixty days after the due date, there shall be imposed a total penalty of twenty percent of the amount of the unpaid tax and fee. No penalty so added shall be less than five dollars.

(3) Delinquent taxes under this section are subject to interest at the rate set forth in RCW 82.32.050 from the date of delinquency until paid. Delinquent derelict vessel removal fees are also subject to interest at the same rate and in the same manner as provided for delinquent taxes under RCW 82.32.050. Interest or penalties collected on delinquent taxes and derelict vessel removal fees under this section shall be paid by the department into the general fund of the state treasury.

(4) If upon information obtained by the department it appears that any ship or vessel required to be listed according to the provisions of RCW 84.40.065 is not so listed, the department shall value the ship or vessel and assess against the owner of the vessel the taxes and derelict vessel removal fees found to be due and shall add thereto interest at the rate set forth in RCW 82.32.050 from the original due date of the tax and fee until the date of payment. The department shall notify the vessel owner by mail of the amount and the same shall become due and shall be paid by the vessel owner within thirty days of the date of the notice. If payment is not received by the department by the due date specified in the notice, the department shall add a penalty of ten percent of the tax and fee found due. A person who willfully gives a false listing or willfully fails to list a ship or vessel as required by RCW 84.40.065 shall be subject to the penalty imposed by RCW 84.40.130(2), which shall be assessed and collected by the department.

(5) Delinquent taxes and fees under this section, along with all penalties and interest thereon, shall be collected by the department according to the procedures set forth in chapter 82.32 RCW for the filing and execution of tax warrants, including the imposition of warrant interest. In the event a warrant is issued by the department for the collection of taxes, derelict vessel removal fees, or both, under this section, the department shall add a penalty of five percent of the amount of the delinquent tax and fee, but not less than ten dollars.

(6) ((The department shall also collect all delinquent taxes pertaining to ships and vessels appearing on the records of the county treasurers for each of the counties of this state as of December 31, 1993, including any applicable interest or penalties. The provisions of subsection (5) of this section shall apply to the collection of such delinquent taxes.

(7))) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may grant extensions of the due date of any taxes and fees payable under this section as the department deems proper.

(7) The department of revenue must withhold the decals required under RCW 88.02.570(10) for failure to pay the state property tax or derelict vessel removal fee collectible under this section.

NEW SECTION. Sec. 404. Sections 401 through 403 of this act take effect January 1, 2015.

Part Five--Incentivizing the Registration of Moored Vessels

NEW SECTION. Sec. 501. A new section is added to chapter 88.02 RCW to read as follows:

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(1) A moorage provider that provides long-term moorage must obtain the following information and documentation from persons entering into long-term moorage agreements with the moorage provider:

- (a) The name of the legal owner of the vessel;
- (b) A local contact person and that person's address and telephone number, if different than the owner;
- (c) The owner's address and telephone number;
- (d) The vessel's hull identification number;
- (e) If applicable, the vessel's coast guard registration;
- (f) The vessel's home port;
- (g) The date on which the moorage began;
- (h) The vessel's country or state of registration and registration number; and

(i) Proof of vessel registration, a written statement of the lessee's intent to register a vessel, or an affidavit in a form and manner approved by the department certifying that the vessel is exempt from state vessel registration requirements as provided by RCW 88.02.570.

(2) For moorage agreements entered into effective on or after July 1, 2014, a long-term moorage agreement for vessels not registered in this state must include, in a form and manner approved by the department and the department of revenue, notice of state vessel registration requirements as provided by this chapter and tax requirements as provided by chapters 82.08, 82.12, and 82.49 RCW and listing requirements as provided by RCW 84.40.065.

(3) A moorage provider must maintain records of the information and documents required under this section for at least two years. Upon request, a moorage provider must:

(a) Permit any authorized agent of a requesting agency to:

(i) Inspect the moorage facility for vessels that are not registered as required by this chapter or listed as required under RCW 84.40.065; and

(ii) Inspect and copy records identified in subsection (1) of this section for vessels that the requesting agency determines are not properly registered or listed as required by law; or

(b) Provide to the requesting agency:

(i) Information as provided in subsection (1)(a), (c), (d), and (e) of this section; and

(ii) Information as provided in subsection (1)(b), (f), (g), (h), and (i) of this section for those vessels that the requesting agency subsequently determines are not registered as required by this chapter or listed as required under RCW 84.40.065.

(4) Requesting agencies must coordinate their requests to ensure that a moorage provider does not receive more than two requests per calendar year. For the purpose of enforcing vessel registration and vessel listing requirements, requesting agencies may share the results of information requests with each other.

(5) The information required to be collected under this section must be collected at the time the long-term moorage agreement is entered into and at the time of any renewals of the agreement. The moorage provider is not responsible for updating any changes in the information that occurs after the initial agreement is entered into or in the time period between agreement renewals.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Long-term moorage" means moorage provided for more than thirty consecutive days, unless the moorage is for a vessel that has been taken into custody under RCW 79.100.040.

(b) "Moorage facility" means any properties or facilities located in this state that are used for the moorage of vessels and are owned or operated by a moorage provider.

(c) "Moorage facility operator" has the same meaning as defined in RCW 53.08.310.

(d) "Moorage provider" means any public or private entity that owns or operates any moorage facility, including a moorage facility operator, private moorage facility operator, the state of Washington, or any other person.

(e) "Private moorage facility operator" has the same meaning as defined in RCW 88.26.010.

(f) "Requesting agency" means the department, the department of revenue, or the department of natural resources.

NEW SECTION. Sec. 502. A new section is added to chapter 82.49 RCW to read as follows:

(1) An owner of a vessel that is not registered as required by chapter 88.02 RCW and for which watercraft excise tax is due under this chapter is liable for a penalty in the following amount:

(a) One hundred dollars for the owner's first violation;

(b) Two hundred dollars for the owner's second violation involving the same or any other vessel; or

(c) Four hundred dollars for the owner's third and successive violations involving the same or any other vessel.

(2) The department of revenue may collect this penalty under the procedures established in chapter 82.32 RCW. The penalty imposed under this section is in addition to any other civil or criminal penalty imposed by law.

Sec. 503. RCW 82.49.010 and 2010 c 161 s 1044 are each amended to read as follows:

(1) An excise tax is imposed for the privilege of using a vessel upon the waters of this state, except vessels exempt under RCW 82.49.020. The annual amount of the excise tax is one-half of one percent of fair market value, as determined under this chapter, or five dollars, whichever is greater. Violation of this subsection is a misdemeanor.

(2) ~~((Persons who are))~~ A person who is required under chapter 88.02 RCW to register a vessel in this state and who fails to register the vessel in this state or registers the vessel in another state or foreign country and avoids the Washington watercraft excise tax ~~((are))~~ is guilty of a gross misdemeanor and ~~((are))~~ is liable for such unpaid excise tax. The department of revenue may assess and collect the unpaid excise tax under chapter 82.32 RCW, including the penalty imposed in section 502 of this act and penalties and interest provided in chapter 82.32 RCW.

(3) The excise tax upon a vessel registered for the first time in this state shall be imposed for a twelve-month period, including the month in which the vessel is registered, unless the director of licensing extends or diminishes vessel registration periods for the purpose of staggered renewal periods under RCW 88.02.560. A vessel is registered for the first time in this state when the vessel was not registered in this state for the immediately preceding registration year, or when the vessel was registered in another jurisdiction for the immediately preceding year.

Part Six--Miscellaneous and Technical

Sec. 601. RCW 79.100.060 and 2013 c 291 s 40 are each amended to read as follows:

(1) The owner of an abandoned or derelict vessel, or any person or entity that has incurred secondary liability ~~((under RCW 79.100.150))~~ for an abandoned or derelict vessel under this chapter or section 202 of this act, is responsible for reimbursing an authorized public entity for all reasonable and auditable costs associated with the removal or disposal of the owner's vessel under this chapter. These costs include, but are not limited to, costs incurred exercising the authority granted in RCW 79.100.030, all administrative costs incurred by the authorized public entity during the procedure set forth in RCW 79.100.040, removal and disposal costs, and costs associated with environmental damages directly or indirectly caused by the vessel. An authorized public entity that

has taken temporary possession of a vessel may require that all reasonable and auditable costs associated with the removal of the vessel be paid before the vessel is released to the owner.

(2) Reimbursement for costs may be sought from an owner, or any person or entity that has incurred secondary liability under ~~((RCW 79.100.150))~~ this chapter or section 202 of this act, who is identified subsequent to the vessel's removal and disposal.

(3) If the full amount of all costs due to the authorized public entity under this chapter is not paid to the authorized public entity within thirty days after first notifying the responsible parties of the amounts owed, the authorized public entity or the department may bring an action in any court of competent jurisdiction to recover the costs, plus reasonable attorneys' fees and costs incurred by the authorized public entity.

Sec. 602. RCW 79.100.120 and 2013 c 291 s 32 are each amended to read as follows:

(1) ~~((A person))~~ (a) An owner or lien holder seeking to contest an authorized public entity's decision to take temporary possession or custody of a vessel under this chapter, or to contest the amount of reimbursement owed to an authorized public entity under this chapter, may request a hearing in accordance with this section.

(b) A transferor or other entity with secondary liability under this chapter or section 202 of this act may commence a lawsuit in the superior court for the county in which custody of the vessel was taken to contest the transferor's or other entity's liability or the amount of reimbursement owed the authorized public entity under this chapter.

(2)(a) If the contested decision or action was undertaken by a state agency, a written request for a hearing related to the decision or action must be filed with the pollution control hearings board and served on the state agency in accordance with RCW 43.21B.230 (2) and (3) within thirty days of the date the authorized public entity acquires custody of the vessel under RCW 79.100.040, or if the vessel is redeemed before the authorized public entity acquires custody, the date of redemption, or the right to a hearing is deemed waived and the vessel's owner is liable for any costs owed the authorized public entity. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

(b) Upon receipt of a timely hearing request, the pollution control hearings board shall proceed to hear and determine the validity of the decision to take the vessel into temporary possession or custody and the reasonableness of any towing, storage, or other charges permitted under this chapter. Within five business days after the request for a hearing is filed, the pollution control hearings board shall notify the vessel owner requesting the hearing and the authorized public entity of the date, time, and location for the hearing. Unless the vessel is redeemed before the request for hearing is filed, the pollution control hearings board shall set the hearing on a date that is within ten business days of the filing of the request for hearing. If the vessel is redeemed before the request for a hearing is filed, the pollution control hearings board shall set the hearing on a date that is within sixty days of the filing of the request for hearing.

(c) Consistent with RCW 43.21B.305, a proceeding brought under this subsection may be heard by one member of the pollution control hearings board, whose decision is the final decision of the board.

(3)(a) If the contested decision or action was undertaken by a metropolitan park district, port district, city, town, or county, which has adopted rules or procedures for contesting decisions or actions pertaining to derelict or abandoned vessels, those rules or procedures must be followed in order to contest a decision to take temporary possession or custody of a vessel, or to contest the amount of reimbursement owed.

(b) If the metropolitan park district, port district, city, town, or county has not adopted rules or procedures for contesting decisions

or actions pertaining to derelict or abandoned vessels, then ~~((a person))~~ an owner or lien holder requesting a hearing under this section must follow the procedure established in subsection (2) of this section.

Sec. 603. RCW 79.100.100 and 2013 c 291 s 2 are each amended to read as follows:

(1)(a) The derelict vessel removal account is created in the state treasury. All receipts from RCW 79.100.050 and 79.100.060 and those moneys specified in RCW 88.02.640 must be deposited into the account. The account is authorized to receive fund transfers and appropriations from the general fund, deposits from the derelict vessel removal surcharge under RCW 88.02.640(4), deposits under section 402 of this act, as well as 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 this chapter and expend the same or any income according to the terms of the gifts, grants, or endowments provided those terms do not conflict with any provisions of this section or any guidelines developed to prioritize reimbursement of removal projects associated with this chapter.

(b) Moneys in the account may only be spent after appropriation. Expenditures from the account may only be used by the department for developing and administering the vessel turn-in program created in RCW 79.100.160 and to, except as provided in RCW 79.100.130 and section 203 of this act, reimburse authorized public entities for up to ninety percent of the total reasonable and auditable administrative, removal, disposal, and environmental damage costs of abandoned or derelict vessels when the previous owner is either unknown after a reasonable search effort or insolvent. Reimbursement may not be made unless the department determines that the public entity has made reasonable efforts to identify and locate the party responsible for the vessel, or any other person or entity that has incurred secondary liability ~~((under RCW 79.100.150))~~ for the vessel under this chapter or section 202 of this act, regardless of the title of owner of the vessel.

(c) Funds in the account resulting from transfers from the general fund or from the deposit of funds from the watercraft excise tax as provided for under RCW 82.49.030 must be used to reimburse one hundred percent of costs and should be prioritized for the removal of large vessels.

(d) Costs associated with the removal and disposal of an abandoned or derelict vessel under the authority granted in RCW 53.08.320 also qualify for reimbursement from the derelict vessel removal account.

(e) In each biennium, up to twenty percent of the expenditures from the derelict vessel removal account may be used for administrative expenses of the department of licensing and department of natural resources in implementing this chapter.

(2) Priority for use of this account is for the removal of derelict and abandoned vessels that are in danger of sinking, breaking up, or blocking navigation channels, or that present environmental risks such as leaking fuel or other hazardous substances. The department must develop criteria, in the form of informal guidelines, to prioritize removal projects associated with this chapter, but may not consider whether the applicant is a state or local entity when prioritizing. The guidelines must also include guidance to the authorized public entities as to what removal activities and associated costs are reasonable and eligible for reimbursement.

(3) The department must keep all authorized public entities apprised of the balance of the derelict vessel removal account and the funds available for reimbursement. The guidelines developed by the department must also be made available to the other authorized public entities. This subsection (3) must be satisfied by utilizing the least costly method, including maintaining the information on the department's internet web site, or any other cost-effective method.

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(4) An authorized public entity may contribute its ten percent of costs that are not eligible for reimbursement by using in-kind services, including the use of existing staff, equipment, and volunteers.

(5) This chapter does not guarantee reimbursement for an authorized public entity. Authorized public entities seeking certainty in reimbursement prior to taking action under this chapter may first notify the department of their proposed action and the estimated total costs. Upon notification by an authorized public entity, the department must make the authorized public entity aware of the status of the fund and the likelihood of reimbursement being available. The department may offer technical assistance and assure reimbursement for up to two years following the removal action if an assurance is appropriate given the balance of the fund and the details of the proposed action.

Sec. 604. RCW 79.100.010 and 2007 c 342 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) "Abandoned vessel" means a vessel that has been left, moored, or anchored in the same area without the express consent, or contrary to the rules of, the owner, manager, or lessee of the aquatic lands below or on which the vessel is located for either a period of more than thirty consecutive days or for more than a total of ninety days in any three hundred sixty-five-day period, and the vessel's owner is: (a) Not known or cannot be located; or (b) known and located but is unwilling to take control of the vessel. For the purposes of this subsection (1) only, "in the same area" means within a radius of five miles of any location where the vessel was previously moored or anchored on aquatic lands.

(2) "Aquatic lands" means all tidelands, shorelands, harbor areas, and the beds of navigable waters, including lands owned by the state and lands owned by other public or private entities.

(3) "Authorized public entity" includes any of the following: The department of natural resources; the department of fish and wildlife; the parks and recreation commission; a metropolitan park district; a port district; and any city, town, or county with ownership, management, or jurisdiction over the aquatic lands where an abandoned or derelict vessel is located.

(4) "Department" means the department of natural resources.

(5) "Derelict vessel" means the vessel's owner is known and can be located, and exerts control of a vessel that:

(a) Has been moored, anchored, or otherwise left in the waters of the state or on public property contrary to RCW 79.02.300 or rules adopted by an authorized public entity;

(b) Has been left on private property without authorization of the owner; or

(c) Has been left for a period of seven consecutive days, and:

(i) Is sunk or in danger of sinking;

(ii) Is obstructing a waterway; or

(iii) Is endangering life or property.

(6) "Owner" means any natural person, firm, partnership, corporation, association, government entity, or organization that has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(7) "Vessel" means every species of watercraft or other mobile artificial contrivance, powered or unpowered, intended to be used for transporting people or goods on water or for floating marine construction or repair and which does not exceed two hundred feet in length. "Vessel" includes any trailer used for the transportation of watercraft, or any attached floats or debris.

(8) "Ship" means every species of watercraft or other mobile artificial contrivance, powered or unpowered, intended to be used

for transporting people or goods on water or for floating marine construction or repair and that exceeds two hundred feet in length.

Sec. 605. 2013 c 291 s 39 (uncodified) is amended to read as follows:

(1) By December 31, ~~((2013))~~ 2014, the department of natural resources shall adopt by rule initial procedures and standards for the vessel inspections required under ~~((section 38 of this act))~~ RCW 79.100.150. The procedures and standards must identify the public or private entities authorized to conduct inspections, the required elements of an inspection, and the manner in which inspection results must be documented. The vessel inspection required under this section must be designed to:

(a) Provide the transferee with current information about the condition of the vessel, including the condition of its hull and key operating systems, prior to the transfer;

(b) Provide the department of natural resources with information under (a) of this subsection for each applicable vessel and, more broadly, to improve the department's understanding of the condition of the larger, older boats in the state's waters;

(c) Discourage the future abandonment or dereliction of the vessel; and

(d) Maximize the efficiency and effectiveness of the inspection process, including with respect to the time and resources of the transferor, transferee, and the state.

(2) The department of natural resources shall work with appropriate government agencies and stakeholders in designing the inspection process and standards under this section.

(3) This section expires July 31, ~~((2014))~~ 2015.

NEW SECTION. Sec. 606. 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."

Senators Pearson and Liias spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Pearson and Liias to Second Substitute House Bill No. 2457.

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

MOTION

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

On page 1, line 1 of the title, after "vessels;" strike the remainder of the title and insert "amending RCW 79.100.150, 79.100.130, 88.26.010, 53.08.310, 84.56.440, 82.49.010, 79.100.060, 79.100.120, 79.100.100, and 79.100.010; amending 2013 c 291 s 39 (uncodified); adding new sections to chapter 79.100 RCW; adding a new section to chapter 88.26 RCW; adding a new section to chapter 53.08 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 88.02 RCW; adding a new section to chapter 82.49 RCW; creating new sections; prescribing penalties; providing effective dates; and providing expiration dates."

MOTION

On motion of Senator Pearson, the rules were suspended, Second Substitute House Bill No. 2457 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pearson, Liias and Bailey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2457 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2457 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hill, Hobbs, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Sheldon and Tom

Voting nay: Senators Hewitt, Holmquist Newbry, Padden and Schoesler

SECOND SUBSTITUTE HOUSE BILL NO. 2457 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2125, by House Committee on Appropriations Subcommittee on General Government & Information Technology (originally sponsored by Representatives Schmick, Cody and Buys)

Removing the requirements that all fines collected be credited to the Washington horse racing commission class C purse fund account.

The measure was read the second time.

MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, Substitute House Bill No. 2125 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2125.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2125 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senator Hargrove

SUBSTITUTE HOUSE BILL NO. 2125, having received the constitutional majority, was declared passed. There being no

objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2155, by House Committee on Government Accountability & Oversight (originally sponsored by Representatives Dahlquist, Hurst, S. Hunt, Morrell and Moscoso)

Preventing theft of alcoholic spirits from licensed retailers.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 66.28 RCW to read as follows:

(1) The board must adopt rules by January 1, 2015, that require each spirits retail licensee that is licensed to sell spirits in original containers to consumers for consumption off the licensed premises, to report to the board quarterly, any and all loss of spirits, due to theft, breakage, loss, or diversion. The report must include the amount of spirits that is stolen, broken, lost, or diverted by type of spirits, manner of loss, and retail value. Spirits retail licensees required to report under this section must report the retail cost of the loss of spirits.

(2) The board must report to the appropriate committees of legislature annually the amount of spirits stolen, broken, lost, or diverted. The report must include the amount of loss totals, such as the amount and retail value, by each licensed retail establishment as well as the total value of the lost, taxes, and fees. Information must be made available to the public in a searchable format on a web site maintained by the board. The first report is due by January 1, 2016."

On page 1, line 2 of the title, after "retailers;" strike the remainder of the title and insert "and adding a new section to chapter 66.28 RCW."

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

Senator Holmquist Newbry spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Conway and others to Engrossed Substitute House Bill No. 2155.

The motion by Senator Conway failed and the striking amendment was not adopted by voice vote.

MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, Engrossed Substitute House Bill No. 2155 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2155.

ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2155 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2155, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1724, by Representatives Roberts, Kagi, Pettigrew, Goodman, Green, Reykdal, Cody, Jinkins, Appleton, Freeman, Moeller, Ryu, Pollet, Moscoso and Bergquist

Concerning statements made by juveniles during assessments or screenings for mental health or chemical dependency treatment.

The measure was read the second time.

MOTION

On motion of Senator O'Ban, the rules were suspended, House Bill No. 1724 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators O'Ban and Darneille spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1724.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1724 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Dansel and Padden

HOUSE BILL NO. 1724, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2115, by Representatives Johnson, Appleton, Seaquist, Goodman, Moscoso, Klippert, Morrell,

Orwall, Tarleton, Green, Smith, Zeiger, Haler, Ross, Hayes and Walkinshaw

Concerning the composition of the officer promotion board.

The measure was read the second time.

MOTION

On motion of Senator Roach, the rules were suspended, House Bill No. 2115 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2115.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2115 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

HOUSE BILL NO. 2115, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2461, by House Committee on Business & Financial Services (originally sponsored by Representatives Kirby and Ryu)

Addressing the financial solvency of insurance companies.

The measure was read the second time.

MOTION

Senator Hobbs moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Insurance be not adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.31B.005 and 1993 c 462 s 2 are each amended to read as follows:

((As used in this chapter, the following terms have the meanings set forth in this section, unless the context requires otherwise.)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) ~~((An))~~ "Affiliate" means an affiliate of, or person ~~((=))~~ affiliated ~~((=))~~ with, a specific person, ~~((is))~~ and includes a person ~~((who))~~ that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) ~~((The term))~~ "Commissioner" means the insurance commissioner, the commissioner's deputies, or the office of the

insurance commissioner, as appropriate.

(3) "Control" means as follows:

(a) For a for-profit person, "control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if ~~((a))~~ any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in a manner similar to that provided by RCW 48.31B.025(11) that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

~~((3-A))~~ (b) For a nonprofit corporation organized under chapters 24.03 and 24.06 RCW, control exists if a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing a majority of voting rights of the person or the power to elect or appoint a majority of the board of directors, trustees, or other governing body of the person, unless the power is the result of an official position of, or corporate office held by, the person; and

(c) Control includes either permanent or temporary control.

(4) "Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as set forth in RCW 48.05.440 or 48.43.310 or would cause the insurer to be in hazardous financial condition as defined in WAC 284-16-310.

(5) "Insurance holding company system" means a system that consists of two or more affiliated persons, one or more of which is an insurer.

~~((4-The term))~~ (6) "Insurer" ~~((has the same meaning as set forth in RCW 48.01.050))~~ includes an insurer authorized under chapter 48.05 RCW, a fraternal mutual insurer or society holding a license under RCW 48.36A.290, a health care service contractor registered under chapter 48.44 RCW, a health maintenance organization registered under chapter 48.46 RCW, and a self-funded multiple employer welfare arrangement under chapter 48.125 RCW, as well as all persons engaged as, or purporting to be engaged as insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements in this state, and to persons in process of organization to become insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements, except it does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

~~((5-A))~~ (7) "Person" ~~((is))~~ means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, ~~((a))~~ any similar entity, or any combination of the foregoing acting in concert, but does not include a joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

~~((6-A))~~ (8) "Securityholder" means a securityholder of a specified person ~~((is one))~~ who owns ~~((a))~~ any security of that

person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

~~((7-A))~~ (9) "Subsidiary" means a subsidiary of a specified person who is an affiliate controlled by that person directly or indirectly through one or more intermediaries.

~~((8-The term))~~ (10) "Supervisory colleges" means a forum for cooperation and communication among involved regulators and international supervisors facilitating the effectiveness of supervision of entities which belong to an insurance group and supervision of the group as a whole on a group-wide basis and improving the legal entity supervision of the entities within the insurance group.

(11) "Voting security" includes ~~((a))~~ any security convertible into or evidencing a right to acquire a voting security.

Sec. 2. RCW 48.31B.010 and 1993 c 462 s 3 are each amended to read as follows:

(1) A domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries. The subsidiaries may conduct any kind of business or businesses authorized in RCW 48.13.061(4) and subject to the percentage limitations contained in chapter 48.13 RCW.

(2) If an insurer ceases to control a subsidiary, it shall dispose of any investment in the subsidiary within three years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after the investment ~~((has been))~~ was made, the investment ~~((meets))~~ met the requirements for investment under any other section of this title, and the insurer has notified the commissioner thereof.

Sec. 3. RCW 48.31B.015 and 1993 c 462 s 4 are each amended to read as follows:

(1)~~(a)~~ No person other than the issuer may make a tender offer for or a request or invitation for tenders of, or enter into an agreement to exchange securities of, seek to acquire, or acquire, in the open market or otherwise, voting security of a domestic insurer if, after the consummation thereof, the person would, directly or indirectly, or by conversion or by exercise of a right to acquire, be in control of the insurer~~(-)~~ and no person may enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time the offer, request, or invitation is made or the agreement is entered into, or ~~((before))~~ prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the insurer, a statement containing the information required by this section and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner as prescribed in this ~~((section))~~ chapter.

(b) For purposes of this section, any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer, in any manner, must file with the commissioner, with a copy to the insurer, notice of its proposed divestiture at least thirty days prior to the cessation of control. If the statement referred to in (a) of this subsection is otherwise filed, this subsection does not apply.

(c) With respect to a transaction subject to this section, the acquiring person must also file a preacquisition notification with the commissioner, which must contain the information set forth in RCW 48.31B.020(3)(a). A failure to file the notification may be subject to penalties specified in RCW 48.31B.020(5)(c).

(d) For purposes of this section a domestic insurer includes a person controlling a domestic insurer unless the person, as determined by the commissioner, is either directly or through its affiliates primarily engaged in business other than the business of insurance. ~~((However, the person shall file a preacquisition notification with the commissioner containing the information set forth in RCW 48.31B.020(3)(a) sixty days before the proposed effective date of the acquisition. Persons who fail to file the~~

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~~required preacquisition notification with the commissioner are subject to the penalties in RCW 48.31B.020(5)(c).)~~ For the purposes of this section, "person" does not include ~~((a))~~ any securities broker holding, in usual and customary broker's function, less than twenty percent of the voting securities of an insurance company or of ~~((a))~~ any person who controls an insurance company.

(2) The statement to be filed with the commissioner under this section must be made under oath or affirmation and must contain the following ~~((information))~~:

(a) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (1) of this section is to be effected, ~~((hereinafter called--))~~ and referred to in this section as the acquiring party~~((--))~~ and:

(i) If that person is an individual, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years; and

(ii) If that person is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as the person and any predecessors have been in existence; an informative description of the business intended to be done by the person and the person's subsidiaries; any convictions of crimes during the past ten years; and a list of all individuals who are or who have been selected to become directors or executive officers of the person, or who perform or will perform functions appropriate to those positions. The list must include for each such individual the information required by (a)(i) of this subsection~~((--))~~;

(b) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction ~~((in which))~~ where funds were or are to be obtained for any such purpose, including ~~((a))~~ any pledge of the insurer's stock~~((--))~~ or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing ~~((the))~~ consideration. However, ~~((where))~~ when a source of ~~((the))~~ consideration is a loan made in the lender's ordinary course of business, the identity of the lender must remain confidential, if the person filing the statement so requests~~((--))~~;

(c) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each acquiring party, or for such lesser period as the acquiring party and any predecessors have been in existence, and similar unaudited information as of a date not earlier than ninety days ~~((before))~~ prior to the filing of the statement~~((--))~~;

(d) Any plans or proposals that each acquiring party may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management~~((--))~~;

(e) The number of shares of any security referred to in subsection (1) of this section ~~((that))~~ which each acquiring party proposes to acquire, the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (1) of this section, and a statement as to the method by which the fairness of the proposal was arrived at~~((--))~~;

(f) The amount of each class of any security referred to in subsection (1) of this section that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party~~((--))~~;

(g) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection (1) of this section in which an acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description

must identify the persons with whom the contracts, arrangements, or understandings have been entered into~~((--))~~;

(h) A description of the purchase of any security referred to in subsection (1) of this section during the twelve calendar months ~~((before))~~ preceding the filing of the statement, by an acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid ~~((for the security--))~~;

(i) A description of any recommendations to purchase any security referred to in subsection (1) of this section made during the twelve calendar months ~~((before))~~ preceding the filing of the statement, by an acquiring party, or by anyone based upon interviews or at the suggestion of the acquiring party~~((--))~~;

(j) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (1) of this section, and, if distributed, of additional soliciting material relating to ~~((the securities--))~~ them;

(k) The term of an agreement, contract, or understanding made with or proposed to be made with ~~((a))~~ any broker-dealer as to solicitation or securities referred to in subsection (1) of this section for tender, and the amount of fees, commissions, or other compensation to be paid to broker-dealers with regard ~~((to the securities--))~~ thereto;

(l) An agreement by the person required to file the statement referred to in subsection (1) of this section that it will provide the annual report, specified in RCW 48.31B.025(12), for so long as control exists;

(m) An acknowledgement by the person required to file the statement referred to in subsection (1) of this section that the person and all subsidiaries within its control in the insurance holding company system will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer;

(n) Such additional information as the commissioner may prescribe by rule as necessary or appropriate for the protection of policyholders of the insurer or in the public interest~~((--))~~;

~~((o))~~ If the person required to file the statement referred to in subsection (1) of this section is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by (a) through ~~((h))~~ (n) of this subsection shall be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls a partner or member. If ~~((a))~~ any partner, member, or person is a corporation~~((--))~~ or the person required to file the statement referred to in subsection (1) of this section is a corporation, the commissioner may require that the information called for by (a) through ~~((h))~~ (n) of this subsection ~~((shall))~~ be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of the corporation~~((--))~~;

~~((p))~~ If ~~((a))~~ any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer under this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, must be filed with the commissioner and sent to the insurer within two business days after the person learns of the change.

(3) If ~~((a))~~ any offer, request, invitation, agreement, or acquisition referred to in subsection (1) of this section is proposed to be made by means of a registration statement under the securities act of 1933 or in circumstances requiring the disclosure of similar information under the securities exchange act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (1) of this section may ~~((use those))~~ utilize the documents in furnishing the information called for by that statement.

(4)(a) The commissioner shall approve a merger or other acquisition of control referred to in subsection (1) of this section unless, after a public hearing thereon, he or she finds that:

(i) After the change of control, the domestic insurer referred to in subsection (1) of this section would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein. In applying the competitive standard in this subsection (4)(a)(ii) (~~(of this subsection)~~):

(A) The informational requirements of RCW 48.31B.020(3)(a) and the standards of RCW 48.31B.020(4)(b) apply;

(B) The ~~((commissioner may not disapprove the))~~ merger or other acquisition may not be disapproved if the commissioner finds that any of the situations meeting the criteria provided by RCW 48.31B.020(4)(c) exist; and

(C) The commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(iii) The financial condition of ~~((an))~~ any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) The plans or proposals ~~((that))~~ which the acquiring party has to liquidate the insurer, sell its assets, consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(v) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(vi) The acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

(b) The commissioner shall approve an exchange or other acquisition of control referred to in this section within sixty days after he or she declares the statement filed under this section to be complete and after holding a public hearing. At the hearing, the person filing the statement, the insurer, and any person whose significant interest is determined by the commissioner to be affected may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith may conduct discovery proceedings in the same manner as is allowed in the superior court of this state. All discovery proceedings must be concluded not later than three days before the commencement of the public hearing.

(c) If the proposed acquisition of control will require the approval of more than one commissioner, the public hearing referred to in (b) of this subsection may be held on a consolidated basis upon request of the person filing the statement referred to in subsection (1) of this section. Such person shall file the statement referred to in subsection (1) of this section with the national association of insurance commissioners within five days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing, and shall provide notice to the applicant of the opt out within ten days of the receipt of the statement referred to in subsection (1) of this section. A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. Such commissioners shall hear and receive evidence. A commissioner may attend such hearing, in person, or by telecommunication.

(d) In connection with a change of control of a domestic insurer, any determination by the commissioner that the person acquiring control of the insurer shall be required to maintain or restore the

capital of the insurer to the level required by the laws and rules of this state shall be made not later than sixty days after the date of notification of the change in control submitted pursuant to subsection (1)(a) of this section.

(e) The commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control. All reasonable costs of a hearing held under this section, as determined by the commissioner, including costs associated with the commissioner's use of investigatory, professional, and other necessary personnel, mailing of required notices and other information, and use of equipment or facilities, must be paid before issuance of the commissioner's order by the acquiring person.

(5) This section does not apply to:

(a) ~~((A))~~ Any transaction that is subject to RCW 48.31.010, dealing with the merger or consolidation of two or more insurers;

(b) An offer, request, invitation, agreement, or acquisition ~~((that))~~ which the commissioner by order ~~((has exempted from this section as: (i) Not))~~ exempts as not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or ~~((iii))~~ as otherwise not comprehended within the purposes of this section.

(6) The following are violations of this section:

(a) The failure to file a statement, amendment, or other material required to be filed under subsection (1) or (2) of this section; or

(b) The effectuation or an attempt to effectuate an acquisition of control of, divestiture of, or merger with, a domestic insurer unless the commissioner has given approval thereto.

(7) The courts of this state ~~((have))~~ are hereby vested with jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the commissioner under this section, and over all actions involving that person arising out of violations of this section, and each such person is deemed to have performed acts equivalent to and constituting an appointment by that person of the commissioner to be the person's true and lawful attorney upon whom may be served all lawful process in an action, suit, or proceeding arising out of violations of this section. Copies of all ~~((such))~~ lawful process ~~((shall))~~ must be served on the commissioner and transmitted by registered or certified mail by the commissioner to such person at the person's last known address.

Sec. 4. RCW 48.31B.020 and 1993 c 462 s 5 are each amended to read as follows:

(1) The following definitions ~~((in this subsection))~~ apply ~~((only))~~ for the purposes of this section ~~((:))~~ only:

(a) "Acquisition" means ~~((an))~~ any agreement, arrangement, or activity ~~((:))~~ the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes but is not limited to the acquisition of voting securities, the acquisition of assets, bulk reinsurance, and mergers.

(b) An "involved insurer" includes an insurer which either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger.

(2)(a) Except as exempted in (b) of this subsection, this section applies to any acquisition in which there is a change in control of an insurer authorized to do business in this state.

(b) This section does not apply to the following:

(i) ~~((An acquisition subject to approval or disapproval by the commissioner under RCW 48.31B.015;~~

~~((ii)))~~ A purchase of securities solely for investment purposes so long as the securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this state. If a purchase of securities results in a presumption of control under RCW 48.31B.005 ~~((:))~~ (3), it is not

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solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and the disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the commissioner of this state;

~~((iii))~~ (ii) The acquisition of a person by another person when neither person is directly nor through affiliates primarily engaged in the business of insurance, if preacquisition notification is filed with the commissioner in accordance with subsection (3)(a) of this section sixty days ~~((before))~~ prior to the proposed effective date of the acquisition. However, the preacquisition notification is not required for exclusion from this section if the acquisition would otherwise be excluded from this section by this subsection (2)(b);

~~((iv))~~ (iii) The acquisition of already affiliated persons;

~~((v))~~ (iv) An acquisition if, as an immediate result of the acquisition:

(A) In no market would the combined market share of the involved insurers exceed five percent of the total market;

(B) There would be no increase in any market share; or

(C) In no market would the:

(I) ~~((The))~~ Combined market share of the involved insurers exceed twelve percent of the total market; and

(II) ~~((The))~~ Market share increase by more than two percent of the total market.

For the purpose of this subsection (2)(b)~~((+)) of this subsection~~ (iv), a ~~((=))~~market~~((=))~~ means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state;

~~((vi))~~ (v) An acquisition for which a preacquisition notification would be required under this section due solely to the resulting effect on the ocean marine insurance line of business;

~~((vii))~~ (vi) An acquisition of an insurer whose domiciliary commissioner affirmatively finds~~((=))~~ that the insurer is in failing condition~~((=))~~, there is a lack of feasible alternative to improving such condition~~((=))~~, and the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition; and the findings are communicated by the domiciliary commissioner to the commissioner of this state.

(3) An acquisition covered by subsection (2) of this section may be subject to an order under subsection (5) of this section unless the acquiring person files a preacquisition notification and the waiting period has expired. The acquired person may file a preacquisition notification.

(a) The preacquisition notification must be in such form and contain such information as prescribed by the national association of insurance commissioners relating to those markets that, under subsection (2)(b)~~((+))~~ (iv) of this section, cause the acquisition not to be exempted from this section. The commissioner may require such additional material and information as he or she deems necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subsection (4) of this section. The required information may include an opinion of an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of the person indicating his or her ability to render an informed opinion.

(b) The waiting period required begins on the date the commissioner declares the preacquisition notification to be complete and ends on the earlier of the sixtieth day after the date of the declaration or the termination of the waiting period by the commissioner. ~~((Before))~~ Prior to the end of the waiting period, the commissioner on a one-time basis may require the submission of additional needed information relevant to the proposed acquisition~~((= If additional information is required))~~, in which

event the waiting period ends on the earlier of the sixtieth day after ~~((the commissioner declares he or she has received))~~ receipt of the additional information by the commissioner or the termination of the waiting period by the commissioner.

(4)(a) The commissioner may enter an order under subsection (5)(a) of this section with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in a line of insurance in this state or tend to create a monopoly therein or if the insurer fails to file adequate information in compliance with subsection (3) of this section.

(b) In determining whether a proposed acquisition would violate the competitive standard of (a) of this subsection, the commissioner shall consider the following:

(i) An acquisition covered under subsection (2) of this section involving two or more insurers competing in the same market, as prima facie evidence of violation of the competitive standards, as follows:

(A) If the market is highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
4%	4% or more
10%	2% or more
15%	1% or more; or

(B) If the market is not highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
5%	5% or more
10%	4% or more
15%	3% or more
19%	1% or more

A highly concentrated market is one in which the share of the four largest insurers is seventy-five percent or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two insurers are involved, exceeding the total of the two columns in the table is prima facie evidence of violation of the competitive standard in (a) of this subsection. For the purpose of this subsection (4)(b)(i) ~~((of this subsection))~~, the insurer with the largest share of the market is Insurer A.

(ii) There is a significant trend toward increased concentration when the aggregate market share of a grouping of the largest insurers in the market, from the two largest to the eight largest, has increased by seven percent or more of the market over a period of time extending from a base year five to ten years before the acquisition up to the time of the acquisition. An acquisition or merger covered under subsection (2) of this section involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in (a) of this subsection if:

(A) There is a significant trend toward increased concentration in the market;

(B) One of the insurers involved is one of the insurers in a grouping of such large insurers showing the requisite increase in the market share; and

(C) Another involved insurer's market is two percent or more.

(iii) For the purposes of this subsection (4)(b) (~~(of this subsection)~~):

(A) (~~The term~~) "Insurer" includes ~~(a)~~ any company or group of companies under common management, ownership, or control;

(B) (~~The term~~) "Market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the commissioner shall give due consideration to, among other things, the definitions or guidelines, if any, adopted by the National Association of Insurance Commissioners and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, such line being that used in the annual statement required to be filed by insurers doing business in this state, and the relevant geographical market is assumed to be this state;

(C) The burden of showing prima facie evidence of violation of the competitive standard rests upon the commissioner.

(iv) Even though an acquisition is not prima facie violative of the competitive standard under (b)(i) and (ii) of this subsection, the commissioner may establish the requisite anticompetitive effect based upon other substantial evidence. Even though an acquisition is prima facie violative of the competitive standard under (b)(i) and (ii) of this subsection, a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under ~~((b)(iv) of)~~ this subsection include, but are not limited to, the following: Market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry and exit into the market.

(c) An order may not be entered under subsection (5)(a) of this section if:

(i) The acquisition will yield substantial economies of scale or economies in resource use that cannot be feasibly achieved in any other way, and the public benefits that would arise from the economies exceed the public benefits that would arise from not lessening competition; or

(ii) The acquisition will substantially increase the availability of insurance, and the public benefits of the increase exceed the public benefits that would arise from not lessening competition.

(5)(a)(i) If an acquisition violates the standards of this section, the commissioner may enter an order:

(A) Requiring an involved insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or

(B) Denying the application of an acquired or acquiring insurer for a license to do business in this state.

(ii) (~~The commissioner~~) Such an order may not (~~enter the order~~) be entered unless:

(A) There is a hearing;

(B) Notice of the hearing is issued (~~(before)~~) prior to the end of the waiting period and not less than fifteen days (~~(before)~~) prior to the hearing; and

(C) ~~The~~ hearing is concluded and the order is issued no later than sixty days after the (~~end of the waiting period~~) filing of the preacquisition notification with the commissioner.

(iii) Every order must be accompanied by a written decision of the commissioner setting forth (~~his or her~~) findings of fact and conclusions of law.

(~~(iii)~~) (iv) An order entered under this subsection (5)(a) (~~(of this subsection)~~) may not become final earlier than thirty days after it is issued, during which time the involved insurer may submit a

plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon the plan or other information, the commissioner shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the standards of this section would be remedied and the order vacated or modified.

(~~(iv)~~) (v) An order pursuant to this subsection (5)(a) (~~(of this subsection)~~) does not apply if the acquisition is not consummated.

(b) (~~(A)~~) Any person who violates a cease and desist order of the commissioner under (a) of this subsection and while the order is in effect, may, after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to one or more of the following:

(i) A monetary (~~(penalty)~~) fine of not more than ten thousand dollars for every day of violation; or

(ii) Suspension or revocation of the person's license; or

(iii) Both (b)(i) and (~~(b)~~)(ii) of this subsection.

(c) (~~(An)~~) Any insurer or other person who fails to make a filing required by this section, and who also fails to demonstrate a good faith effort to comply with the filing requirement, is subject to a civil penalty of not more than fifty thousand dollars.

(6) RCW 48.31B.045 (2) and (3) and 48.31B.050 do not apply to acquisitions covered under subsection (2) of this section.

Sec. 5. RCW 48.31B.025 and 2000 c 214 s 1 are each amended to read as follows:

(1) Every insurer that is authorized to do business in this state (~~(that)~~) and is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in:

(a) This section;

(b) RCW 48.31B.030 (1)(a), (2), and (3); and

(c) Either RCW 48.31B.030(1)(b) or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within fifteen days after the end of the month in which it learns of each change or addition.

(~~(An)~~) Any insurer which is subject to registration under this section shall register within fifteen days after it becomes subject to registration, and annually thereafter by (~~(May 15th)~~) April 30th of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration, and then within the extended time. The commissioner may require (~~(an)~~) any insurer authorized to do business in the state that is a member of a holding company system, (~~(but that)~~) and which is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in subsection (3) of this section, or other information filed by the insurance company with the insurance regulatory authority of its domiciliary jurisdiction.

(2) (~~(An)~~) Every insurer subject to registration shall file the registration statement on a form and in a format prescribed by the national association of insurance commissioners, containing the following current information:

(a) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(b) The identity and relationship of every member of the insurance holding company system;

(c) The following agreements in force, and transactions currently outstanding or that have occurred during the last calendar year between the insurer and its affiliates:

(i) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) Purchases, sales, or exchange of assets;

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- (iii) Transactions not in the ordinary course of business;
 - (iv) Guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;
 - (v) All management agreements, service contracts, and cost-sharing arrangements;
 - (vi) Reinsurance agreements;
 - (vii) Dividends and other distributions to shareholders; and
 - (viii) Consolidated tax allocation agreements;
 - (d) Any pledge of the insurer's stock, including stock of subsidiary or controlling affiliate, for a loan made to a member of the insurance holding company system;
 - (e) If requested by the commissioner, the insurer must include financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include but are not limited to annual audited financial statements filed with the United States securities and exchange commission pursuant to the securities act of 1933, as amended, or the securities exchange act of 1934, as amended. An insurer required to file financial statements pursuant to this subsection (2)(e) may satisfy the request by providing the commissioner with the most recently filed parent corporation financial statements that have been filed with the United States securities and exchange commission;
 - (f) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in registration forms adopted or approved by the commissioner;
 - (g) Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures; and
 - (h) Any other information required by the commissioner by rule.
- (3) All registration statements must contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.
- (4) No information need be disclosed on the registration statement filed under subsection (2) of this section if the information is not material for the purposes of this section. Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one percent or less of an insurer's admitted assets as of ~~((the 31st day of the previous))~~ December 31st next preceding are not material for purposes of this section.
- (5)(a) Subject to RCW 48.31B.030(2), each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within five business days after their declaration and ~~((at least))~~ fifteen business days before payment, and shall provide the commissioner such other information as may be required by rule.
- (b) If the commissioner determines that a registered insurer's surplus as regards policyholders is not reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the commissioner may order the registered insurance company to limit or discontinue the payment of stockholder dividends until such time as the surplus is adequate.
- (6) ~~((A))~~ Any person within an insurance holding company system subject to registration ~~((shall))~~ is required to provide complete and accurate information to an insurer, where the information is reasonably necessary to enable the insurer to comply with this chapter.
- (7) The commissioner shall terminate the registration of an insurer that demonstrates that it no longer is a member of an insurance holding company system.

(8) The commissioner may require or allow two or more affiliated insurers subject to registration under this section to file a consolidated registration statement.

(9) The commissioner may allow an insurer authorized to do business in this state and which is part of an insurance holding company system to register on behalf of an affiliated insurer ~~((that))~~ which is required to register under subsection (1) of this section and to file all information and material required to be filed under this section.

(10) This section does not apply to an insurer, information, or transaction if and to the extent that the commissioner by rule or order exempts the insurer, information, or transaction from this section.

(11) ~~((A))~~ Any person may file with the commissioner a disclaimer of affiliation with ~~((an))~~ any authorized insurer, or ~~((an))~~ any insurer or ~~((a))~~ any member of ~~((an))~~ any insurance holding company system may file the disclaimer. The person making such a filing with the commissioner shall at the same time deliver a complete copy of the filing to each domestic insurer which is the subject of such filing. The disclaimer must fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. ~~((After a disclaimer has been filed, the insurer is relieved of any duty to register or report under this section that may arise out of the insurer's relationship with the person unless and until the commissioner disallows the disclaimer. The commissioner shall disallow the disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance.~~

~~((12))~~ A disclaimer of affiliation is deemed to have been granted unless the commissioner, within thirty days following receipt of a complete disclaimer, notifies the filing party the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party is relieved of its duty to register under this section if approval of the disclaimer has been granted by the commissioner, or if the disclaimer is deemed to have been approved.

(12) The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report must, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report must be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

(13) The failure to file a registration statement or ((a)) any summary of the registration statement or enterprise risk filing required by this section within the time specified for ((the)) filing is a violation of this section.

Sec. 6. RCW 48.31B.030 and 1993 c 462 s 7 are each amended to read as follows:

(1)(a) Transactions within ~~((a))~~ an insurance holding company system to which an insurer subject to registration is a party are subject to the following standards:

- (i) The terms must be fair and reasonable;
- (ii) Agreements for cost-sharing services and management must include such provisions as required by rule issued by the commissioner;
- (iii) Charges or fees for services performed must be fair and reasonable;

~~((iii))~~ (iv) Expenses incurred and payment received must be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

~~((iii))~~ (iv) Expenses incurred and payment received must be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

~~((iv))~~ (v) The books, accounts, and records of each party to all such transactions must be so maintained as to clearly and accurately disclose the nature and details of the transactions~~((;))~~ including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; and

~~((iv))~~ (vi) The insurer's surplus regarding policyholders ~~((after))~~ following any dividends or distributions to shareholders or affiliates must be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) The following transactions involving a domestic insurer and a person in its insurance holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, which are subject to the materiality standards contained in this subsection, may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into the transaction and the commissioner declares the notice to be sufficient at least sixty days before, or such shorter period as the commissioner may permit, and the commissioner has not disapproved it within that period. The notice for amendments or modifications must include the reasons for the change and the financial impact on the domestic insurer. Informal notice must be reported, within thirty days after a termination of a previously filed agreement, to the commissioner for determination of the type of filing required, if any:

(i) Sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments if the transactions are equal to or exceed:

(A) With respect to nonlife insurers and not including health care service contractors and health maintenance organizations, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders;

(B) With respect to life insurers, three percent of the insurer's admitted assets~~((; each as of the 31st day of the previous December))~~ as of December 31st next preceding;

(C) With respect to health care service contractors and health maintenance organizations, the lesser of five percent of the insurer's admitted assets or twenty-five percent of its capital and surplus or net worth as of December 31st next preceding;

(ii) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, an affiliate of the insurer making the loans or extensions of credit if the transactions are equal to or exceed:

(A) With respect to nonlife insurers and not including health care service contractors and health maintenance organizations, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders;

(B) With respect to life insurers, three percent of the insurer's admitted assets~~((; each as of the 31st day of the previous December))~~ as of December 31st next preceding;

(C) With respect to health care service contractors and health maintenance organizations, the lesser of five percent of the insurer's admitted assets or twenty-five percent of its capital and surplus or net worth as of December 31st next preceding;

(iii) Reinsurance agreements or modifications ~~((to them))~~ thereto, including:

(A) All reinsurance pooling agreements;

(B) Agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years, equals or exceeds five percent of the insurer's surplus as regards policyholders, as of ~~((the 31st day of the previous))~~ December 31st next preceding, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and

nonaffiliate that any portion of the assets will be transferred to one or more affiliates of the insurer;

(iv) All management agreements, service contracts, tax allocation agreements, guarantees, and all cost-sharing arrangements; ~~((and))~~

(v) Guarantees when made by a domestic insurer. However, a guarantee which is quantifiable as to amount is not subject to the notice requirements of this subsection (1)(b)(v) unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or ten percent of surplus as regards policyholders as of December 31st next preceding. Further, all guarantees which are not quantifiable as to amount are subject to the notice requirements of this subsection (1)(b)(v);

(vi) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount which, together with its present holdings in such investments, exceeds two and one-half percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired or authorized pursuant to chapter 48.13 RCW, or in nonsubsidiary insurance affiliates that are subject to this chapter, are exempt from this requirement; and

(vii) Any material transactions, specified by rule, ~~((that))~~ which the commissioner determines may adversely affect the interests of the insurer's policyholders.

~~((Nothing contained in this section authorizes or permits a))~~ This subsection does not authorize or permit any transaction ~~((that))~~ which, in the case of an insurer not a member of the same insurance holding company system, would be otherwise contrary to law.

(c) A domestic insurer may not enter into transactions ~~((that))~~ which are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that the separate transactions were entered into over ~~((a))~~ any twelve-month period for that purpose, the commissioner may apply for an order as described in RCW 48.31B.045(1).

(d) The commissioner, in reviewing transactions under (b) of this subsection, ~~((shall))~~ must consider whether the transactions comply with the standards set forth in (a) of this subsection and whether they may adversely affect the interests of policyholders.

(e) The commissioner ~~((shall))~~ must be notified within thirty days of an investment of the domestic insurer in any one corporation if the total investment in the corporation by the insurance holding company system exceeds ten percent of the corporation's voting securities.

(2)(a) ~~((No))~~ A domestic insurer may not pay an extraordinary dividend or make any other extraordinary distribution to its shareholders until~~((;—(i)))~~ thirty days after the commissioner declares that he or she has received sufficient notice of the declaration thereof and has not within that period disapproved the payment~~((;))~~, or ~~((if))~~ until the commissioner has approved the payment within the thirty-day period.

(b) For purposes of this section, an extraordinary dividend or distribution is ~~((a))~~ any dividend or distribution of cash or other property, whose fair market value~~((;))~~ together with that of other dividends or distributions made within the ~~((period of))~~ preceding twelve ~~((consecutive))~~ months ~~((ending on the date on which the proposed dividend is scheduled for payment or distribution,))~~ exceeds the greater of:

(i) Ten percent of the ~~((company's))~~ insurer's surplus as regards policyholders or net worth as of ~~((the 31st day of the previous))~~ December next preceding; or

(ii) The net gain from operations of the ~~((company))~~ insurer, if the ~~((company))~~ insurer is a life insurance company, or the net income if the company is not a life insurance company, for the

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twelve month period ending ~~((the 31st day of the previous))~~ December next preceding, but does not include pro rata distributions of any class of the ~~((company's))~~ insurer's own securities.

(c) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval. The declaration confers no rights upon shareholders until: (i) The commissioner has approved the payment of the dividend or distribution; or (ii) the commissioner has not disapproved the payment within the thirty-day period referred to in (a) of this subsection.

(3) For purposes of this chapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, ~~((may))~~ must be considered:

(a) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

(b) The extent to which the insurer's business is diversified among ~~((the))~~ several lines of insurance;

(c) The number and size of risks insured in each line of business;

(d) The extent of the geographical dispersion of the insurer's insured risks;

(e) The nature and extent of the insurer's reinsurance program;

(f) The quality, diversification, and liquidity of the insurer's investment portfolio;

(g) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

(h) The surplus as regards policyholders maintained by other comparable insurers;

(i) The adequacy of the insurer's reserves;

(j) The quality and liquidity of investments in affiliates. The commissioner may ~~((discount))~~ treat any such investment ~~((or may treat any such investment))~~ as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in ~~((his or her))~~ the judgment of the commissioner the investor so warrants; and

(k) The quality of the insurer's earnings and the extent to which the reported earnings include extraordinary items.

(4)(a) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer are not thereby relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer must be managed so as to assure its separate operating identity consistent with this title.

(b) This section does not preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of subsection (1)(a) of this section.

(c) At least one-third of a domestic insurer's directors and at least one-third of the members of each committee of the insurer's board of directors must be persons who are not: (i) Officers or employees of the insurer or of any entity that controls, is controlled by, or is under common control with the insurer; or (ii) beneficial owners of a controlling interest in the voting securities of the insurer or of an entity that controls, is controlled by, or is under common control with the insurer. A quorum for transacting business at a meeting of the insurer's board of directors or any committee of the board of directors must include at least one person with the qualifications described in (a) of this subsection.

(d)(i) For a for-profit person, the board of directors of a domestic insurer shall establish one or more committees comprised solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling

interest in the voting stock of the insurer or any such entity. The committee or committees have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers.

(ii) For a nonprofit person, the board of directors of a domestic insurer shall establish one or more committees comprised solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer. The committee or committees have responsibility for nominating candidates for director for election, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers.

(e) The provisions of (c) and (d) of this subsection do not apply to a domestic insurer if the person controlling the insurer has a board of directors and committees thereof that meet the requirements of (c) and (d) of this subsection with respect to such controlling entity.

(f) An insurer may make application to the commissioner for a waiver from the requirements of this subsection, if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the federal crop insurance corporation and federal flood program, is less than three hundred million dollars. An insurer may also make application to the commissioner for a waiver from the requirements of this subsection based upon unique circumstances. The commissioner may consider various factors including, but not limited to, the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.

Sec. 7. RCW 48.31B.035 and 1993 c 462 s 8 are each amended to read as follows:

(1) Subject to the limitation contained in this section and in addition to the powers that the commissioner has under chapter 48.03 RCW relating to the examination of insurers, the commissioner ~~((also may order an insurer registered under RCW 48.31B.025 to produce such records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to ascertain the financial condition of the insurer or to determine compliance with this title. If the insurer fails to comply with the order, the commissioner may examine the affiliates to obtain the information))~~ has the power to examine any insurer registered under RCW 48.31B.025 and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

(2)(a) The commissioner may order any insurer registered under RCW 48.31B.025 to produce such records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to determine compliance with this title.

(b) To determine compliance with this title, the commissioner may order any insurer registered under RCW 48.31B.025 to produce information not in the possession of the insurer if the insurer can obtain access to such information pursuant to contractual relationships, statutory obligations, or other method. In the event the insurer cannot obtain the information requested by the commissioner, the insurer shall provide the commissioner a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of information. Whenever it appears to the commissioner that the detailed explanation is without merit, the commissioner may require, after notice and hearing, the insurer to pay a fine of ten thousand dollars for each day's delay, or may suspend or revoke the insurer's license.

The commissioner shall transfer the fine collected under this section to the state treasurer for deposit into the general fund.

(3) The commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as are reasonably necessary to assist in the conduct of the examination under subsection (1) of this section. Any persons so retained are under the direction and control of the commissioner and shall act in a purely advisory capacity.

~~((3))~~ (4) Notwithstanding the provisions under RCW 48.03.060, each registered insurer producing for examination records, books, and papers under subsection (1) of this section ~~((are))~~ is liable for and ~~((shall))~~ must pay the expense of the examination ~~((in accordance with RCW 48.03.060)).~~

(5) In the event the insurer fails to comply with an order, the commissioner has the power to examine the affiliates to obtain the information. The commissioner also has the power to issue subpoenas, to administer oaths, and to examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court. Every person is required to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. Every person is entitled to the same fees and mileage, if claimed, as a witness as provided in RCW 48.03.070.

NEW SECTION. Sec. 8. A new section is added to chapter 48.31B RCW to read as follows:

(1) With respect to any insurer registered under RCW 48.31B.025, and in accordance with subsection (3) of this section, the commissioner has the power to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in order to determine compliance by the insurer with this title. The powers of the commissioner with respect to supervisory colleges include, but are not limited to, the following:

- (a) Initiating the establishment of a supervisory college;
- (b) Clarifying the membership and participation of other supervisors in the supervisory college;
- (c) Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;
- (d) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing; and
- (e) Establishing a crisis management plan.

(2) Each registered insurer subject to this section is liable for and must pay the reasonable expenses of the commissioner's participation in a supervisory college in accordance with subsection (3) of this section, including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the commissioner may establish a regular assessment to the insurer for the payment of these expenses.

(3) In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management, and governance processes, and as part of the examination of individual insurers in accordance with RCW 48.31B.035, the commissioner may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal, and international regulatory agencies. The commissioner may enter into agreements in accordance with section 9(3) of this act providing the basis for cooperation between the

commissioner and the other regulatory agencies, and the activities of the supervisory college. This section does not delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within its jurisdiction.

NEW SECTION. Sec. 9. A new section is added to chapter 48.31B RCW to read as follows:

(1) Documents, materials, or other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to RCW 48.31B.035 and all information reported pursuant to RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, and section 8 of this act are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which it pertains. The commissioner may publish all or any part of such information in such manner as is deemed appropriate if: (a) The commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public is served by the publication thereof, and (b) the information is not protected under RCW 48.02.065.

(2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to this chapter is permitted or may be required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the commissioner's duties, the commissioner:

(a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section, with other state, federal, and international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, with the international association of insurance supervisors and the bank for international settlements and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in section 8 of this act, provided the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality;

(b) Notwithstanding (a) of this subsection, may only share confidential and privileged documents, material, or information reported pursuant to RCW 48.31B.025(12) with commissioners of states having statutes or rules substantially similar to subsection (1) of this section and who have agreed in writing not to disclose such information;

(c) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information from the national association of insurance commissioners and its affiliates and subsidiaries, the international association of insurance supervisors and the bank for international settlements and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of

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the jurisdiction that is the source of the document, material, or information; and

(d) Shall enter into written agreements with the national association of insurance commissioners governing sharing and use of information provided pursuant to this chapter consistent with this subsection that shall:

(i) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the national association of insurance commissioners with other state, federal, or international regulators including the international association of insurance supervisors and the bank for international settlements and its affiliates and subsidiaries;

(ii) Specify that ownership of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter remains with the commissioner and the national association of insurance commissioners' use of the information is subject to the direction of the commissioner;

(iii) Require prompt notice to be given to an insurer whose confidential information in the possession of the national association of insurance commissioners pursuant to this chapter is subject to a request or subpoena to the national association of insurance commissioners for disclosure or production; and

(iv) Require the national association of insurance commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter.

(4) The sharing of information by the commissioner pursuant to this chapter does not constitute a delegation of regulatory authority or rule making, and the commissioner is solely responsible for the administration, execution, and enforcement of this chapter.

(5) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

(6) Documents, materials, or other information in the possession or control of the national association of insurance commissioners pursuant to this chapter are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action.

Sec. 10. RCW 48.31B.040 and 1993 c 462 s 9 are each amended to read as follows:

The commissioner may, ((upon notice and opportunity for all interested persons to be heard, adopt rules and issue orders that are necessary to carry out)) in accordance with the administrative procedure act, chapter 34.05 RCW, adopt rules interpreting and implementing this chapter.

Sec. 11. RCW 48.31B.050 and 1993 c 462 s 11 are each amended to read as follows:

(1) The commissioner shall require, after notice and hearing, an insurer failing, without just cause, to file a registration statement as required in this chapter, to pay a penalty of not more than ten thousand dollars per day. The maximum penalty under this section is one million dollars. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

The commissioner shall pay a fine collected under this section to the state treasurer for the account of the general fund.

(2) Every director or officer of an insurance holding company system who knowingly violates this chapter, or participates in, or assents to, or who knowingly permits an officer or agent of the insurer to engage in transactions or make investments that have not been properly reported or submitted under RCW 48.31B.025(1) or 48.31B.030(1)(b) or (2), or that violate this chapter, shall pay, in their individual capacity, a civil forfeiture of not more than ten thousand dollars per violation, after notice and hearing before the commissioner. In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(3) Whenever it appears to the commissioner that an insurer subject to this chapter or a director, officer, employee, or agent of the insurer has engaged in a transaction or entered into a contract that is subject to RCW 48.31B.030 and that would not have been approved had approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing the commissioner may also order the insurer to void any such contracts and restore the status quo if that action is in the best interest of the policyholders, creditors, or the public.

(4) Whenever it appears to the commissioner that an insurer or a director, officer, employee, or agent of the insurer has committed a willful violation of this chapter, the commissioner may refer the matter to the prosecuting attorney of Thurston county or the county in which the principal office of the insurer is located. An insurer that willfully violates this chapter may be fined not more than one million dollars. Any individual who willfully violates this chapter may be fined in his or her individual capacity not more than ten thousand dollars, or be imprisoned for not more than three years, or both.

(5) An officer, director, or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made a false statement or false report or false filing with the intent to deceive the commissioner in the performance of his or her duties under this chapter, upon conviction thereof, shall be imprisoned for not more than three years or fined not more than ten thousand dollars or both. The officer, director, or employee upon whom the fine is imposed shall pay the fine in his or her individual capacity.

(6) Whenever it appears to the commissioner that any person has committed a violation of RCW 48.31B.015 and which prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision in accordance with RCW 48.31.400.

Sec. 12. RCW 48.31B.070 and 1993 c 462 s 15 are each amended to read as follows:

(1) A person aggrieved by an act, determination, rule, order, or any other action of the commissioner under this chapter may proceed in accordance with the administrative procedure act, chapter 34.05 RCW.

(2) A person aggrieved by a failure of the commissioner to act or make a determination required by this chapter may petition the commissioner under the procedure described in ((~~RCW 34.05.330~~)) the administrative procedure act, chapter 34.05 RCW.

Sec. 13. RCW 42.56.400 and 2013 c 277 s 5 and 2013 c 65 s 5 are each reenacted and 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)) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and section 8 of this act, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; ~~((and))~~

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017; and

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5).

Sec. 14. RCW 42.56.400 and 2013 c 65 s 5 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)) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and section 8 of this act, all of which are confidential and privileged;

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(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; and

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017.

Sec. 15. RCW 48.02.065 and 2007 c 126 s 1 are each amended to read as follows:

(1) Documents, materials, or other information as described in either subsection (5) or (6), or both, of this section are confidential by law and privileged, are not subject to public disclosure under chapter 42.56 RCW, and are not subject to subpoena directed to the commissioner or any person who received documents, materials, or other information while acting under the authority of the commissioner. The commissioner is authorized to use such documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The confidentiality and privilege created by this section and RCW 42.56.400(~~(9)~~) (8) applies only to the commissioner, any person acting under the authority of the

commissioner, the national association of insurance commissioners and its affiliates and subsidiaries, regulatory and law enforcement officials of other states and nations, the federal government, and international authorities.

(2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner is permitted or required to testify in any private civil action concerning any confidential and privileged documents, materials, or information subject to subsection (1) of this section.

(3) The commissioner:

(a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section, with (i) the national association of insurance commissioners and its affiliates and subsidiaries, and (ii) regulatory and law enforcement officials of other states and nations, the federal government, and international authorities, if the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;

(b) May receive documents, materials, or information, including otherwise either confidential or privileged, or both, documents, materials, or information, from (i) the national association of insurance commissioners and its affiliates and subsidiaries, and (ii) regulatory and law enforcement officials of other states and nations, the federal government, and international authorities and shall maintain as confidential and privileged any document, material, or information received that is either confidential or privileged, or both, under the laws of the jurisdiction that is the source of the document, material, or information; and

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

(4) No waiver of an existing privilege or claim of confidentiality in the documents, materials, or information may occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

(5) Documents, materials, or information, which is either confidential or privileged, or both, which has been provided to the commissioner by (a) the national association of insurance commissioners and its affiliates and subsidiaries, (b) regulatory or law enforcement officials of other states and nations, the federal government, or international authorities, or (c) agencies of this state, is confidential and privileged only if the documents, materials, or information is protected from disclosure by the applicable laws of the jurisdiction that is the source of the document, material, or information.

(6) Working papers, documents, materials, or information produced by, obtained by, or disclosed to the commissioner or any other person in the course of a financial (~~(e)~~) examination under RCW 48.03.010, a market conduct examination under RCW 48.37.060, a financial examination or investigation under RCW 48.31B.035, or in the course of financial analysis or market conduct analysis or desk audit, or submitted under RCW 48.31B.025(12) or an agreement submitted by an insurer in conjunction with a filing under RCW 48.31B.030(1)(b) are not required to be disclosed by the commissioner unless cited by the commissioner in connection with an agency action as defined in RCW 34.05.010(3). The commissioner shall notify a party that produced the documents, materials, or information five business days before disclosure in connection with an agency action. The notified party may seek injunctive relief in any Washington state superior court to prevent disclosure of any documents, materials, or information it believes is confidential or privileged. In civil actions between private parties or in criminal actions, disclosure to the commissioner under this section does not create any privilege or claim of confidentiality or waive any existing privilege or claim of confidentiality.

(7)(a) After receipt of a public disclosure request, the commissioner shall disclose the documents, materials, or information under subsection (6) of this section that relate to a financial or market conduct examination undertaken as a result of a proposed change of control of a nonprofit or mutual health insurer governed in whole or in part by chapter 48.31B ~~((or 48.31C))~~ RCW.

(b) The commissioner is not required to disclose the documents, materials, or information in (a) of this subsection if:

(i) The documents, materials, or information are otherwise privileged or exempted from public disclosure; or

(ii) The commissioner finds that the public interest in disclosure of the documents, materials, or information is outweighed by the public interest in nondisclosure in that particular instance.

(8) Any person may petition a Washington state superior court to allow inspection of information exempt from public disclosure under subsection (6) of this section when the information is connected to allegations of negligence or malfeasance by the commissioner related to a financial or market conduct examination. The court shall conduct an in-camera review after notifying the commissioner and every party that produced the information. The court may order the commissioner to allow the petitioner to have access to the information provided the petitioner maintains the confidentiality of the information. The petitioner must not disclose the information to any other person, except upon further order of the court. After conducting a regular hearing, the court may order that the information can be disclosed publicly if the court finds that there is a public interest in the disclosure of the information and the exemption of the information from public disclosure is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

Sec. 16. RCW 48.13.061 and 2011 c 188 s 7 are each amended to read as follows:

The following classes of investments may be counted for the purposes specified in RCW 48.13.101, whether they are made directly or as a participant in a partnership, joint venture, or limited liability company. Investments in partnerships, joint ventures, and limited liability companies are authorized investments only pursuant to subsection (12) of this section:

(1) Cash in the direct possession of the insurer or on deposit with a financial institution regulated by any federal or state agency of the United States;

(2) Bonds, debt-like preferred stock, and other evidences of indebtedness of governmental units in the United States or Canada, or the instrumentalities of the governmental units, or private business entities domiciled in the United States or Canada, including asset-backed securities and securities valuation office listed mutual funds;

(3) Loans secured by first mortgages, first trust deeds, or other first security interests in real property located in the United States or Canada or secured by insurance against default issued by a government insurance corporation of the United States or Canada or by an insurer authorized to do business in this state;

(4) Common stock or equity-like preferred stock or equity interests in any United States or Canadian business entity, or shares of mutual funds registered with the securities and exchange commission of the United States under the investment company act of 1940, other than securities valuation office listed mutual funds, and, subsidiaries, as defined in RCW 48.31B.005 ~~((or 48.31C.010))~~, engaged exclusively in the following businesses:

(a) Acting as an insurance producer, surplus line broker, or title insurance agent for its parent or for any of its parent's insurer subsidiaries or affiliates;

(b) Investing, reinvesting, or trading in securities or acting as a securities broker or dealer for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

(c) Rendering management, sales, or other related services to any investment company subject to the federal investment company act of 1940, as amended;

(d) Rendering investment advice;

(e) Rendering services related to the functions involved in the operation of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims appraisal, and collection services;

(f) Acting as administrator of employee welfare benefit and pension plans for governments, government agencies, corporations, or other organizations or groups;

(g) Ownership and management of assets which the parent could itself own and manage: PROVIDED, that the aggregate investment by the insurer and its subsidiaries acquired pursuant to this subsection (4)(g) shall not exceed the limitations otherwise applicable to such investments by the parent;

(h) Acting as administrative agent for a government instrumentality which is performing an insurance function or is responsible for a health or welfare program;

(i) Financing of insurance premiums;

(j) Any other business activity reasonably ancillary to an insurance business;

(k) Owning one or more subsidiary;

(i) Insurers, health care service contractors, or health maintenance organizations to the extent permitted by this chapter;

(ii) Businesses specified in (a) through (k) of this subsection inclusive; or

(iii) Any combination of such insurers and businesses;

(5) Real property necessary for the convenient transaction of the insurer's business;

(6) Real property, together with the fixtures, furniture, furnishings, and equipment pertaining thereto in the United States or Canada, which produces or after suitable improvement can reasonably be expected to produce income;

(7) Loans, securities, or other investments of the types described in subsections (1) through (6) of this section in national association of insurance commissioners securities valuation office 1 debt rated countries other than the United States and Canada;

(8) Bonds or other evidences of indebtedness of international development organizations of which the United States is a member;

(9) Loans upon the security of the insurer's own policies in amounts that are adequately secured by the policies and that in no case exceed the surrender values of the policies;

(10) Tangible personal property under contract of sale or lease under which contractual payments may reasonably be expected to return the principal of and provide earnings on the investment within its anticipated useful life;

(11) Other investments the commissioner authorizes by rule; and

(12) Investments not otherwise permitted by this section, and not specifically prohibited by statute, to the extent of not more than five percent of the first five hundred million dollars of the insurer's admitted assets plus ten percent of the insurer's admitted assets exceeding five hundred million dollars.

Sec. 17. RCW 48.97.005 and 2008 c 217 s 75 are each amended to read as follows:

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

(1) "Accredited state" means a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners.

(2) "Control" or "controlled by" has the meaning ascribed in RCW 48.31B.005 ~~((2))~~ (3).

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(3) "Controlled insurer" means a licensed insurer that is controlled, directly or indirectly, by a broker.

(4) "Controlling producer" means a producer who, directly or indirectly, controls an insurer.

(5) "Licensed insurer" or "insurer" means a person, firm, association, or corporation licensed to transact property and casualty insurance business in this state. The following, among others, are not licensed insurers for purposes of this chapter:

(a) ((Risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, P.L. 99-499, 100 Stat. 1613 (1986), the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq. (1982 Supp. 1986), and chapter 48.92 RCW;

b)) All residual market pools and joint underwriting associations; and

~~((c) Captive insurers. For the purposes of this chapter,))~~ (b) captive insurers other than risk retention groups as defined in 15 U.S.C. Sec. 3901 et seq. and 42 U.S.C. Sec. 9671 are insurance companies owned by another organization((-)) whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks to member organizations or group members, or both, and their affiliates.

(6) "Producer" means an insurance broker or brokers or any other person, firm, association, or corporation when, for compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of an insurance contract on behalf of an insured other than the person, firm, association, or corporation.

Sec. 18. RCW 48.125.140 and 2004 c 260 s 16 are each amended to read as follows:

(1) The commissioner may make an examination of the operations of any self-funded multiple employer welfare arrangement as often as he or she deems necessary in order to carry out the purposes of this chapter.

(2) Every self-funded multiple employer welfare arrangement shall submit its books and records relating to its operation for financial condition and market conduct examinations and in every way facilitate them. For the purpose of examinations, the commissioner may issue subpoenas, administer oaths, and examine the officers and principals of the ~~((self-funded))~~ self-funded multiple employer welfare arrangement.

(3) The commissioner may elect to accept and rely on audit reports made by an independent certified public accountant for the self-funded multiple employer welfare arrangement in the course of that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his or her report of the examination.

(4)(a) The commissioner may also examine any affiliate of the self-funded multiple employer welfare arrangement. An examination of an affiliate is limited to the activities or operations of the affiliate that may impact the financial position of the arrangement.

(b) For the purposes of this section, "affiliate" has the same meaning as defined in RCW ~~((48.31C.010))~~ 48.31B.005.

(5) Whenever an examination is made, all of the provisions of chapter 48.03 RCW not inconsistent with this chapter shall be applicable. In lieu of making an examination himself or herself, the commissioner may, in the case of a foreign self-funded multiple employer welfare arrangement, accept an examination report of the applicant by the regulatory official in its state of domicile. In the case of a domestic self-funded multiple employer welfare arrangement, the commissioner may accept an examination report

of the applicant by the regulatory official of a state that has already licensed the arrangement.

Sec. 19. RCW 48.155.010 and 2010 c 27 s 4 are each amended to read as follows:

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

(1) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) "Commissioner" means the Washington state insurance commissioner.

(3)(a) "Control" or "controlled by" or "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(b) Control exists when any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person. A presumption of control may be rebutted by a showing made in the manner provided by RCW 48.31B.005~~((2))~~ (3) and 48.31B.025(11) that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(4)(a) "Discount plan" means a business arrangement or contract in which a person or organization, in exchange for fees, dues, charges, or other consideration, provides or purports to provide discounts to its members on charges by providers for health care services.

(b) "Discount plan" does not include:

(i) A plan that does not charge a membership or other fee to use the plan's discount card;

(ii) A patient access program as defined in this chapter;

(iii) A medicare prescription drug plan as defined in this chapter; or

(iv) A discount plan offered by a health carrier authorized under chapter 48.20, 48.21, 48.44, or 48.46 RCW.

(5)(a) "Discount plan organization" means a person that, in exchange for fees, dues, charges, or other consideration, provides or purports to provide access to discounts to its members on charges by providers for health care services. "Discount plan organization" also means a person or organization that contracts with providers, provider networks, or other discount plan organizations to offer discounts on health care services to its members. This term also includes all persons that determine the charge to or other consideration paid by members.

(b) "Discount plan organization" does not mean:

(i) Pharmacy benefit managers;

(ii) Health care provider networks, when the network's only involvement in discount plans is contracting with the plan to provide discounts to the plan's members;

(iii) Marketers who market the discount plans of discount plan organizations which are licensed under this chapter as long as all written communications of the marketer in connection with a discount plan clearly identify the licensed discount plan organization as the responsible entity; or

(iv) Health carriers, if the discount on health care services is offered by a health carrier authorized under chapter 48.20, 48.21, 48.44, or 48.46 RCW.

(6) "Health care facility" or "facility" has the same meaning as in RCW 48.43.005~~((15))~~ (22).

(7) "Health care provider" or "provider" has the same meaning as in RCW 48.43.005(~~((46))~~) (23).

(8) "Health care provider network," "provider network," or "network" means any network of health care providers, including any person or entity that negotiates directly or indirectly with a discount plan organization on behalf of more than one provider to provide health care services to members.

(9) "Health care services" has the same meaning as in RCW 48.43.005(~~((47))~~) (24).

(10) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005(~~((48))~~) (25).

(11) "Marketer" means a person or entity that markets, promotes, sells, or distributes a discount plan, including a contracted marketing organization and a private label entity that places its name on and markets or distributes a discount plan pursuant to a marketing agreement with a discount plan organization.

(12) "Medicare prescription drug plan" means a plan that provides a medicare part D prescription drug benefit in accordance with the requirements of the federal medicare prescription drug improvement and modernization act of 2003.

(13) "Member" means any individual who pays fees, dues, charges, or other consideration for the right to receive the benefits of a discount plan, but does not include any individual who enrolls in a patient access program.

(14) "Patient access program" means a voluntary program sponsored by a pharmaceutical manufacturer, or a consortium of pharmaceutical manufacturers, that provides free or discounted health care products for no additional consideration directly to low-income or uninsured individuals either through a discount card or direct shipment.

(15) "Person" means an individual, a corporation, a governmental entity, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the persons listed in this subsection.

(16)(a) "Pharmacy benefit manager" means a person that performs pharmacy benefit management for a covered entity.

(b) For purposes of this subsection, a "covered entity" means an insurer, a health care service contractor, a health maintenance organization, or a multiple employer welfare arrangement licensed, certified, or registered under the provisions of this title. "Covered entity" also means a health program administered by the state as a provider of health coverage, a single employer that provides health coverage to its employees, or a labor union that provides health coverage to its members as part of a collective bargaining agreement.

Sec. 20. RCW 48.155.015 and 2009 c 175 s 4 are each amended to read as follows:

(1) This chapter applies to all discount plans and all discount plan organizations doing business in or from this state or that affect subjects located wholly or in part or to be performed within this state, and all persons having to do with this business.

(2) A discount plan organization that is a health carrier, as defined under RCW 48.43.005, with a license, certificate of authority, or registration (~~(under RCW 48.05.030 or chapter 48.31C RCW)~~):

(a) Is not required to obtain a license under RCW 48.155.020, except that any of its affiliates that operate as a discount plan organization in this state must obtain a license under RCW 48.155.020 and comply with all other provisions of this chapter;

(b) Is required to comply with RCW 48.155.060 through 48.155.090 and report, in the form and manner as the commissioner may require, any of the information described in RCW 48.155.110(2) (b), (c), or (d) that is not otherwise already reported; and

(c) Is subject to RCW 48.155.130 and 48.155.140.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) RCW 48.31C.010 (Definitions) and 2001 c 179 s 1;

(2) RCW 48.31C.020 (Acquisition of a foreign health carrier--Preacquisition notification--Review) and 2001 c 179 s 2;

(3) RCW 48.31C.030 (Acquisition of a domestic health carrier--Filing--Review--Jurisdiction of courts) and 2001 c 179 s 3;

(4) RCW 48.31C.040 (Registration with commissioner--Information required--Rule making--Disclaimer of affiliation--Failure to file) and 2001 c 179 s 4;

(5) RCW 48.31C.050 (Health carrier subject to registration--Standards for transactions within a holding company system--Notice to commissioner--Review) and 2001 c 179 s 5;

(6) RCW 48.31C.060 (Extraordinary dividends or distributions--Restrictions--Definition of distribution) and 2001 c 179 s 6;

(7) RCW 48.31C.070 (Examination of health carriers--Commissioner may order production of information--Failure to comply--Costs) and 2001 c 179 s 7;

(8) RCW 48.31C.080 (Violations of chapter--Commissioner may seek superior court order) and 2001 c 179 s 8;

(9) RCW 48.31C.090 (Violations of chapter--Penalties--Civil forfeitures--Orders--Referral to prosecuting attorney--Imprisonment) and 2001 c 179 s 9;

(10) RCW 48.31C.100 (Violations of chapter--Impairment of financial condition) and 2001 c 179 s 10;

(11) RCW 48.31C.110 (Order for liquidation or rehabilitation--Recovery of distributions or payments--Liability--Maximum amount recoverable) and 2001 c 179 s 11;

(12) RCW 48.31C.120 (Violations of chapter--Contrary to interests of subscribers or the public) and 2001 c 179 s 12;

(13) RCW 48.31C.130 (Confidential proprietary and trade secret information--Exempt from public disclosure--Exceptions) and 2001 c 179 s 13;

(14) RCW 48.31C.140 (Person aggrieved by actions of commissioner) and 2001 c 179 s 15;

(15) RCW 48.31C.150 (Rule making) and 2001 c 179 s 16;

(16) RCW 48.31C.160 (Dual holding company system membership) and 2001 c 179 s 17;

(17) RCW 48.31C.900 (Severability--2001 c 179) and 2001 c 179 s 18; and

(18) RCW 48.31C.901 (Effective date--2001 c 179) and 2001 c 179 s 19.

NEW SECTION. Sec. 22. PURPOSE AND SCOPE. (1) The purpose of this chapter is to provide the requirements for maintaining a risk management framework and completing an own risk and solvency assessment and provide guidance and instructions for filing an ORSA summary report with the insurance commissioner of this state.

(2) The requirements of this chapter apply to all insurers domiciled in this state unless exempt pursuant to section 27 of this act.

(3) The legislature finds and declares that the ORSA summary report contains confidential and sensitive information related to an insurer or insurance group's identification of risks material and relevant to the insurer or insurance group filing the report. This information includes proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if the information is made public. It is the intent of this legislature that the ORSA summary report is a confidential document filed with the commissioner, that the ORSA summary report may be shared only as stated in this chapter and to assist the commissioner in the performance of his or her duties, and that in no event may the ORSA summary report be subject to public disclosure.

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NEW SECTION. Sec. 23. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Insurance group" means, for the purposes of conducting an ORSA, those insurers and affiliates included within an insurance holding company system as defined in RCW 48.31B.005.

(2) "Insurer" includes an insurer authorized under chapter 48.05 RCW, a fraternal mutual insurer or society holding a license under RCW 48.36A.290, a health care service contractor registered under chapter 48.44 RCW, a health maintenance organization registered under chapter 48.46 RCW, and a self-funded multiple employer welfare arrangement under chapter 48.125 RCW, as well as all persons engaged as, or purporting to be engaged as insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements in this state, and to persons in process of organization to become insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements, except that it does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

(3) "Own risk and solvency assessment" or "ORSA" means a confidential internal assessment, appropriate to the nature, scale, and complexity of an insurer or insurance group, conducted by that insurer or insurance group of the material and relevant risks associated with the insurer or insurance group's current business plan, and the sufficiency of capital resources to support those risks.

(4) "ORSA guidance manual" means the own risk and solvency assessment guidance manual developed and adopted by the national association of insurance commissioners.

(5) "ORSA summary report" means a confidential high-level ORSA summary of an insurer or insurance group.

NEW SECTION. Sec. 24. RISK MANAGEMENT FRAMEWORK. An insurer shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on its material and relevant risks. This requirement is satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

NEW SECTION. Sec. 25. ORSA REQUIREMENT. Subject to section 27 of this act, an insurer, or the insurance group of which the insurer is a member, shall regularly conduct an ORSA consistent with a process comparable to the ORSA guidance manual. The ORSA must be conducted annually but also at any time when there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

NEW SECTION. Sec. 26. ORSA SUMMARY REPORT. (1) Upon the commissioner's request, and no more than once each year, an insurer shall submit to the commissioner an ORSA summary report or any combination of reports that together contain the information described in the ORSA guidance manual, applicable to the insurer or the insurance group of which it is a member. Notwithstanding any request from the commissioner, if the insurer is a member of an insurance group, the insurer shall submit the report or set of reports required by this subsection if the commissioner is the lead state commissioner of the insurance group as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

(2) The report shall include a signature of the insurer or insurance group's chief risk officer or other executive having responsibility for the oversight of the insurer's enterprise risk management process attesting to the best of his or her belief and

knowledge that the insurer applies the enterprise risk management process described in the ORSA summary report and that a copy of the report has been provided to the insurer's board of directors or the appropriate governing committee.

(3) An insurer may comply with subsection (1) of this section by providing the most recent and substantially similar report or reports provided by the insurer or another member of an insurance group of which the insurer is a member to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the ORSA guidance manual. Any such report in a language other than English must be accompanied by a translation of that report into the English language.

NEW SECTION. Sec. 27. EXEMPTIONS. (1) An insurer is exempt from the requirements of this chapter, if:

(a) The insurer has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premium reinsured with the federal crop insurance corporation and federal flood program, less than five hundred million dollars; and

(b) The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premium reinsured with the federal crop insurance corporation and federal flood program, less than one billion dollars.

(2) If an insurer qualifies for exemption pursuant to subsection (1)(a) of this section, but the insurance group of which the insurer is a member does not qualify for exemption pursuant to subsection (1)(b) of this section, then the ORSA summary report that may be required pursuant to section 26 of this act must include every insurer within the insurance group. This requirement is satisfied by the submission of more than one ORSA summary report for any combination of insurers, provided any combination of reports includes every insurer within the insurance group.

(3) If an insurer does not qualify for exemption pursuant to subsection (1)(a) of this section, but the insurance group of which the insurer is a member does qualify for exemption pursuant to subsection (1)(b) of this section, then the only ORSA summary report that may be required pursuant to section 26 of this act is the report applicable to that insurer.

(4) If an insurer does not qualify for exemption pursuant to subsection (1)(a) of this section, the insurer may apply to the commissioner for a waiver from the requirements of this chapter based upon unique circumstances. In deciding whether to grant the insurer's request for waiver, the commissioner may consider the type and volume of business written, ownership and organizational structure, and any other factor the commissioner considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is a part of an insurance group with insurers domiciled in more than one state, the commissioner shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.

(5) Notwithstanding the exemptions stated in this section, the commissioner may require that an insurer maintain a risk management framework, conduct an ORSA, and file an ORSA summary report (a) based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests; and (b) if the insurer has risk-based capital at the company action level event as set forth in RCW 48.05.440 or 48.43.310, meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in WAC 284-16-310, or otherwise exhibits qualities of a troubled insurer as determined by the commissioner.

(6) If an insurer that qualifies for exemption pursuant to subsection (1)(a) of this section subsequently no longer qualifies for that exemption due to changes in premium reflected in the insurer's most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer has one year following the year the threshold is exceeded to comply with the requirement of this chapter.

NEW SECTION. Sec. 28. CONTENTS OF ORSA SUMMARY REPORT. (1) The ORSA summary report shall be prepared consistent with the ORSA guidance manual, subject to the requirements of subsection (2) of this section. Documentation and supporting information must be maintained and made available upon examination or upon the request of the commissioner.

(2) The review of the ORSA summary report, and any additional requests for information, must be made using similar procedures currently used in the analysis and examination of multistate or global insurers and insurance groups.

NEW SECTION. Sec. 29. CONFIDENTIAL TREATMENT. (1) Documents, materials, or other information, including the ORSA summary report, in the possession or control of the commissioner that are obtained by, created by, or disclosed to the commissioner or any other person under this chapter, is recognized by this state as being proprietary and to contain trade secrets. All such documents, materials, or other information is confidential by law and privileged, is not subject to chapter 42.56 RCW, is not subject to subpoena, and is not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner may not otherwise make the documents, materials, or other information public without the prior written consent of the insurer.

(2) Neither the commissioner nor any person who received documents, materials, or other ORSA-related information, through examination or otherwise, while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to this chapter, is permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the commissioner's regulatory duties, the commissioner:

(a) May share documents, materials, or other ORSA-related information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section, including proprietary and trade secret documents and materials with other state, federal, and international regulatory agencies, including members of any supervisory college under section 8(3) of this act, with the national association of insurance commissioners, with the international association of insurance supervisors and the bank for international settlements, and with any third-party consultants designated by the commissioner, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality;

(b) May receive documents, materials, or ORSA-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college under section 8(3) of this act, from the national association of insurance commissioners, the international association of insurance supervisors and the bank for international settlements, and must maintain as confidential or privileged any document, material, or information received with notice or the

understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information;

(c) Shall enter into written agreements with the national association of insurance commissioners or a third-party consultant governing sharing and use of information provided pursuant to this chapter, consistent with this subsection that specifies procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners or third-party consultant pursuant to this chapter, including procedures and protocols for sharing by the national association of insurance commissioners with other state regulators from states in which the insurance group has domiciled insurers. The agreement must provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality;

(d) Shall specify that ownership of information shared with the national association of insurance commissioners or third-party consultants pursuant to this chapter remains with the commissioner and the national association of insurance commissioners' or a third-party consultant's use of the information is subject to the direction of the commissioner;

(e) Shall prohibit the national association of insurance commissioners or third-party consultant from storing the information shared pursuant to this chapter in a permanent database after the underlying analysis is completed;

(f) Shall require prompt notice to be given to an insurer whose confidential information in the possession of the national association of insurance commissioners or a third-party consultant pursuant to this chapter is subject to a request or subpoena to the national association of insurance commissioners for disclosure or production;

(g) Shall require the national association of insurance commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter; and

(h) In the case of an agreement involving a third-party consultant, shall provide the insurer's written consent.

(4) The sharing of information by the commissioner pursuant to this chapter shall not constitute a delegation of regulatory authority or rule making, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this chapter.

(5) A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in this chapter.

(6) Documents, materials, or other information in the possession or control of the national association of insurance commissioners pursuant to this chapter are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action.

NEW SECTION. Sec. 30. SANCTIONS. The commissioner shall require any insurer failing, without just cause, to file the ORSA summary report as required in this chapter, after notice and hearing, to pay a fine of five hundred dollars for each day's delay, to be recovered by the commissioner and the fine collected shall be transferred to the treasurer for deposit into the state general fund. The maximum fine under this section is one hundred thousand dollars. The commissioner may reduce the fine if the

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insurer demonstrates to the commissioner that the imposition of the fine would constitute a financial hardship to the insurer.

Sec. 31. RCW 42.56.400 and 2013 c 277 s 5 and 2013 c 65 s 5 are each reenacted and 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)) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and section 8 of this act, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; ~~((and))~~

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017; ~~((and))~~

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5); and

(24) Documents, materials, or information obtained by the insurance commissioner under chapter 48.-- RCW (the new chapter created in section 36 of this act).

Sec. 32. RCW 42.56.400 and 2013 c 65 s 5 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)) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and section 8 of this act, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; ((and))

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017; and

(23) Documents, materials, or information obtained by the insurance commissioner under chapter 48.-- RCW (the new chapter created in section 36 of this act).

Sec. 33. RCW 48.15.050 and 1947 c 79 s .15.05 are each amended to read as follows:

Every insurance contract procured and delivered as a surplus line coverage pursuant to this chapter ((shall)) must have stamped upon it and be initialed by or bear the name of the surplus line broker who procured it, the following:

"This contract is registered and delivered as a surplus line coverage under the insurance code of the state of Washington, ((enacted in 1947)) Title 48 RCW."

Sec. 34. RCW 48.15.120 and 2011 c 31 s 8 are each amended to read as follows:

(1) On or before the first day of March of each year each surplus line broker must remit to the state treasurer through the commissioner a tax on the premiums, exclusive of sums collected to cover federal and state taxes and examination fees, on surplus line insurance subject to tax transacted by him or her during the preceding calendar year as shown by his or her annual statement filed with the commissioner, and at the same rate as is applicable to the premiums of authorized foreign insurers under this code. The tax when collected must be credited to the general fund.

(2) For property and casualty insurance other than industrial insurance under Title 51 RCW, ((#)) when this state is the insured's home state;

(a) If the surplus line insurance covers risks or exposures located inside the United States, its territories, or both, the tax so payable must be computed upon the entire premium under subsection (1) of this section, without regard to whether the policy covers risks or exposures that are located in this state; and

(b) If the surplus line insurance covers risks or exposures located outside of the United States and its territories, no tax under subsection (1) of this section is due or payable for the premium properly allocable to the risks and exposures located outside the United States and its territories.

(3) For all other lines of insurance, if a surplus line policy covers risks or exposures only partially in this state, the tax so payable must be computed upon the proportion of the premium that is properly allocable to the risks or exposures located in this state.

NEW SECTION. **Sec. 35.** 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. 36.** Sections 22 through 30 and 37 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. **Sec. 37.** SHORT TITLE. This chapter may be known and cited as the risk management and solvency assessment act.

NEW SECTION. **Sec. 38.** EFFECTIVE DATE. Except for sections 14 and 32 of this act, which take effect July 1, 2017, this act takes effect January 1, 2015.

NEW SECTION. **Sec. 39.** Sections 13 and 31 of this act expire July 1, 2017."

On page 1, line 1 of the title, after "companies;" strike the remainder of the title and insert "amending RCW 48.31B.005, 48.31B.010, 48.31B.015, 48.31B.020, 48.31B.025, 48.31B.030, 48.31B.035, 48.31B.040, 48.31B.050, 48.31B.070, 42.56.400, 48.02.065, 48.13.061, 48.97.005, 48.125.140, 48.155.010, 48.155.015, 42.56.400, 48.15.050, and 48.15.120; reenacting and amending RCW 42.56.400 and 42.56.400; adding new sections to chapter 48.31B RCW; adding a new chapter to Title 48 RCW; repealing RCW 48.31C.010, 48.31C.020, 48.31C.030, 48.31C.040, 48.31C.050, 48.31C.060, 48.31C.070, 48.31C.080, 48.31C.090, 48.31C.100, 48.31C.110, 48.31C.120, 48.31C.130, 48.31C.140, 48.31C.150, 48.31C.160, 48.31C.900, and 48.31C.901; prescribing penalties; providing effective dates; and providing an expiration date."

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The President declared the question before the Senate to be the motion by Senator Hobbs to not adopt the committee striking amendment by the Committee on Financial Institutions, Housing & Insurance to Substitute House Bill No. 2461.

The motion by Senator Hobbs carried and the committee striking amendment was not adopted by voice vote.

MOTION

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

Strike everything after the enacting clause and insert the following:

Sec. 1. RCW 48.31B.005 and 1993 c 462 s 2 are each amended to read as follows:

((As used in this chapter, the following terms have the meanings set forth in this section, unless the context requires otherwise.)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) ~~((A))~~ "Affiliate" means an affiliate of, or person ~~((=))~~ affiliated ~~((=))~~ with, a specific person, ~~((is))~~ and includes a person ~~((who))~~ that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) ~~((The term))~~ "Commissioner" means the insurance commissioner, the commissioner's deputies, or the office of the insurance commissioner, as appropriate.

(3) "Control" means as follows:

(a) For a for-profit person, "control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if ~~((a))~~ any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in a manner similar to that provided by RCW 48.31B.025(11) that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

~~((3-A))~~ (b) For a nonprofit corporation organized under chapters 24.03 and 24.06 RCW, control exists if a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing a majority of voting rights of the person or the power to elect or appoint a majority of the board of directors, trustees, or other governing body of the person, unless the power is the result of an official position of, or corporate office held by, the person; and

(c) Control includes either permanent or temporary control.

(4) "Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as set forth in RCW 48.05.440 or 48.43.310 or would cause the insurer to be in hazardous financial condition as defined in WAC 284-16-310.

(5) "Insurance holding company system" means a system that

consists of two or more affiliated persons, one or more of which is an insurer.

~~((4-The term))~~ (6) "Insurer" ~~((has the same meaning as set forth in RCW 48.01.050;))~~ includes an insurer authorized under chapter 48.05 RCW, a fraternal mutual insurer or society holding a license under RCW 48.36A.290, a health care service contractor registered under chapter 48.44 RCW, a health maintenance organization registered under chapter 48.46 RCW, and a self-funded multiple employer welfare arrangement under chapter 48.125 RCW, as well as all persons engaged as, or purporting to be engaged as insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements in this state, and to persons in process of organization to become insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements, except it does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

~~((5-A))~~ (7) "Person" ~~((is))~~ means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, ~~((a))~~ any similar entity, or any combination of the foregoing acting in concert, but does not include a joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

~~((6-A))~~ (8) "Securityholder" means a securityholder of a specified person ~~((is one))~~ who owns ~~((a))~~ any security of that person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

~~((7-A))~~ (9) "Subsidiary" means a subsidiary of a specified person who is an affiliate controlled by that person directly or indirectly through one or more intermediaries.

~~((8-The term))~~ (10) "Supervisory colleges" means a forum for cooperation and communication among involved regulators and international supervisors facilitating the effectiveness of supervision of entities which belong to an insurance group and supervision of the group as a whole on a group-wide basis and improving the legal entity supervision of the entities within the insurance group.

(11) "Voting security" includes ~~((a))~~ any security convertible into or evidencing a right to acquire a voting security.

Sec. 2. RCW 48.31B.010 and 1993 c 462 s 3 are each amended to read as follows:

(1) A domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries. The subsidiaries may conduct any kind of business or businesses authorized in RCW 48.13.061(4) and subject to the percentage limitations contained in chapter 48.13 RCW.

(2) If an insurer ceases to control a subsidiary, it shall dispose of any investment in the subsidiary within three years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after the investment ~~((has been))~~ was made, the investment ~~((meets))~~ met the requirements for investment under any other section of this title, and the insurer has notified the commissioner thereof.

Sec. 3. RCW 48.31B.015 and 1993 c 462 s 4 are each amended to read as follows:

(1)(a) No person other than the issuer may make a tender offer for or a request or invitation for tenders of, or enter into an agreement to exchange securities of, seek to acquire, or acquire, in the open market or otherwise, voting security of a domestic insurer if, after the consummation thereof, the person would, directly or indirectly, or by conversion or by exercise of a right to acquire, be in control of the insurer~~((=))~~ and no person may enter into an agreement

to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time the offer, request, or invitation is made or the agreement is entered into, or ~~((before))~~ prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the insurer, a statement containing the information required by this section and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner as prescribed in this ~~((section))~~ chapter.

(b) For purposes of this section, any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer, in any manner, must file with the commissioner, with a copy to the insurer, notice of its proposed divestiture at least thirty days prior to the cessation of control. If the statement referred to in (a) of this subsection is otherwise filed, this subsection does not apply.

(c) With respect to a transaction subject to this section, the acquiring person must also file a preacquisition notification with the commissioner, which must contain the information set forth in RCW 48.31B.020(3)(a). A failure to file the notification may be subject to penalties specified in RCW 48.31B.020(5)(c).

(d) For purposes of this section a domestic insurer includes a person controlling a domestic insurer unless the person, as determined by the commissioner, is either directly or through its affiliates primarily engaged in business other than the business of insurance. ~~((However, the person shall file a preacquisition notification with the commissioner containing the information set forth in RCW 48.31B.020(3)(a) sixty days before the proposed effective date of the acquisition. Persons who fail to file the required preacquisition notification with the commissioner are subject to the penalties in RCW 48.31B.020(5)(c).))~~ For the purposes of this section, "person" does not include ((a)) any securities broker holding, in usual and customary broker's function, less than twenty percent of the voting securities of an insurance company or of ((a)) any person who controls an insurance company.

(2) The statement to be filed with the commissioner under this section must be made under oath or affirmation and must contain the following ~~((information))~~:

(a) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (1) of this section is to be effected, ~~((hereinafter called"))~~ and referred to in this section as the acquiring party((s)) and:

(i) If that person is an individual, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years; and

(ii) If that person is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as the person and any predecessors have been in existence; an informative description of the business intended to be done by the person and the person's subsidiaries; any convictions of crimes during the past ten years; and a list of all individuals who are or who have been selected to become directors or executive officers of the person, or who perform or will perform functions appropriate to those positions. The list must include for each such individual the information required by (a)(i) of this subsection((-));

(b) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction ~~((in which))~~ where funds were or are to be obtained for any such purpose, including ((a)) any pledge of the insurer's stock((-)) or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing ~~((the))~~ consideration. However, ~~((where))~~ when a source of ~~((the))~~ consideration is a loan made in the lender's ordinary course of business, the identity of the lender must remain confidential, if the person filing the statement so requests((-);

(c) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each acquiring party, or for such lesser period as the acquiring party and any predecessors have been in existence, and similar unaudited information as of a date not earlier than ninety days ~~((before))~~ prior to the filing of the statement((-);

(d) Any plans or proposals that each acquiring party may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management((-);

(e) The number of shares of any security referred to in subsection (1) of this section ~~((that))~~ which each acquiring party proposes to acquire, the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (1) of this section, and a statement as to the method by which the fairness of the proposal was arrived at((-);

(f) The amount of each class of any security referred to in subsection (1) of this section that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party((-);

(g) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection (1) of this section in which an acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description must identify the persons with whom the contracts, arrangements, or understandings have been entered into((-);

(h) A description of the purchase of any security referred to in subsection (1) of this section during the twelve calendar months ~~((before))~~ preceding the filing of the statement, by an acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid ~~((for the security))~~;

(i) A description of any recommendations to purchase any security referred to in subsection (1) of this section made during the twelve calendar months ~~((before))~~ preceding the filing of the statement, by an acquiring party, or by anyone based upon interviews or at the suggestion of the acquiring party((-);

(j) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (1) of this section, and, if distributed, of additional soliciting material relating to ~~((the securities))~~ them;

(k) The term of an agreement, contract, or understanding made with or proposed to be made with ((a)) any broker-dealer as to solicitation or securities referred to in subsection (1) of this section for tender, and the amount of fees, commissions, or other compensation to be paid to broker-dealers with regard ~~((to the securities))~~ thereto;

(l) An agreement by the person required to file the statement referred to in subsection (1) of this section that it will provide the annual report, specified in RCW 48.31B.025(12), for so long as control exists;

(m) An acknowledgement by the person required to file the statement referred to in subsection (1) of this section that the person and all subsidiaries within its control in the insurance holding company system will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer;

(n) Such additional information as the commissioner may prescribe by rule as necessary or appropriate for the protection of policyholders of the insurer or in the public interest((-);

(o) If the person required to file the statement referred to in subsection (1) of this section is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by (a) through ~~((b))~~ (n) of this subsection

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shall be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls a partner or member. If ~~((a))~~ any partner, member, or person is a corporation~~((s))~~ or the person required to file the statement referred to in subsection (1) of this section is a corporation, the commissioner may require that the information called for by (a) through ~~((b))~~ (n) of this subsection ~~((shall))~~ be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of the corporation~~((s))~~;

(p) If ~~((a))~~ any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer under this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, must be filed with the commissioner and sent to the insurer within two business days after the person learns of the change.

(3) If ~~((a))~~ any offer, request, invitation, agreement, or acquisition referred to in subsection (1) of this section is proposed to be made by means of a registration statement under the securities act of 1933 or in circumstances requiring the disclosure of similar information under the securities exchange act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (1) of this section may ~~((use those))~~ utilize the documents in furnishing the information called for by that statement.

(4)(a) The commissioner shall approve a merger or other acquisition of control referred to in subsection (1) of this section unless, after a public hearing thereon, he or she finds that:

(i) After the change of control, the domestic insurer referred to in subsection (1) of this section would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein. In applying the competitive standard in this subsection (4)(a)(ii) ~~((of this subsection))~~:

(A) The informational requirements of RCW 48.31B.020(3)(a) and the standards of RCW 48.31B.020(4)(b) apply;

(B) The ~~((commissioner may not disapprove the))~~ merger or other acquisition may not be disapproved if the commissioner finds that any of the situations meeting the criteria provided by RCW 48.31B.020(4)(c) exist; and

(C) The commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(iii) The financial condition of ~~((a))~~ any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) The plans or proposals ~~((that))~~ which the acquiring party has to liquidate the insurer, sell its assets, consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(v) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(vi) The acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

(b) The commissioner shall approve an exchange or other acquisition of control referred to in this section within sixty days after he or she declares the statement filed under this section to be complete and after holding a public hearing. At the hearing, the

person filing the statement, the insurer, and any person whose significant interest is determined by the commissioner to be affected may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith may conduct discovery proceedings in the same manner as is allowed in the superior court of this state. All discovery proceedings must be concluded not later than three days before the commencement of the public hearing.

(c) If the proposed acquisition of control will require the approval of more than one commissioner, the public hearing referred to in (b) of this subsection may be held on a consolidated basis upon request of the person filing the statement referred to in subsection (1) of this section. Such person shall file the statement referred to in subsection (1) of this section with the national association of insurance commissioners within five days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing, and shall provide notice to the applicant of the opt out within ten days of the receipt of the statement referred to in subsection (1) of this section. A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. Such commissioners shall hear and receive evidence. A commissioner may attend such hearing, in person, or by telecommunication.

(d) In connection with a change of control of a domestic insurer, any determination by the commissioner that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and rules of this state shall be made not later than sixty days after the date of notification of the change in control submitted pursuant to subsection (1)(a) of this section.

(e) The commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control. All reasonable costs of a hearing held under this section, as determined by the commissioner, including costs associated with the commissioner's use of investigatory, professional, and other necessary personnel, mailing of required notices and other information, and use of equipment or facilities, must be paid before issuance of the commissioner's order by the acquiring person.

(5) This section does not apply to:

(a) ~~((A))~~ Any transaction that is subject to RCW 48.31.010, dealing with the merger or consolidation of two or more insurers;

(b) An offer, request, invitation, agreement, or acquisition ~~((that))~~ which the commissioner by order ~~((has exempted from this section as: (i) Not))~~ exempts as not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or ~~((iii))~~ as otherwise not comprehended within the purposes of this section.

(6) The following are violations of this section:

(a) The failure to file a statement, amendment, or other material required to be filed under subsection (1) or (2) of this section; or

(b) The effectuation or an attempt to effectuate an acquisition of control of, divestiture of, or merger with, a domestic insurer unless the commissioner has given approval thereto.

(7) The courts of this state ~~((have))~~ are hereby vested with jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the commissioner under this section, and over all actions involving that person arising out of violations of this section, and each such person is deemed to have performed acts equivalent to and constituting an appointment by that person of the commissioner to be the person's true and lawful attorney upon whom may be served all lawful

process in an action, suit, or proceeding arising out of violations of this section. Copies of all (~~such~~) lawful process (~~shall~~) must be served on the commissioner and transmitted by registered or certified mail by the commissioner to such person at the person's last known address.

Sec. 4. RCW 48.31B.020 and 1993 c 462 s 5 are each amended to read as follows:

(1) The following definitions (~~in this subsection~~) apply (~~only~~) for the purposes of this section(~~;~~) only:

(a) "Acquisition" means (~~an~~) any agreement, arrangement, or activity(~~;~~) the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes but is not limited to the acquisition of voting securities, the acquisition of assets, bulk reinsurance, and mergers.

(b) An "involved insurer" includes an insurer which either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger.

(2)(a) Except as exempted in (b) of this subsection, this section applies to any acquisition in which there is a change in control of an insurer authorized to do business in this state.

(b) This section does not apply to the following:

(i) (~~An acquisition subject to approval or disapproval by the commissioner under RCW 48.31B.015;~~

~~(ii))~~ A purchase of securities solely for investment purposes so long as the securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this state. If a purchase of securities results in a presumption of control under RCW 48.31B.005(~~(2))~~ (3), it is not solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and the disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the commissioner of this state;

(~~(iii))~~ (ii) The acquisition of a person by another person when neither person is directly nor through affiliates primarily engaged in the business of insurance, if preacquisition notification is filed with the commissioner in accordance with subsection (3)(a) of this section sixty days (~~before~~) prior to the proposed effective date of the acquisition. However, the preacquisition notification is not required for exclusion from this section if the acquisition would otherwise be excluded from this section by this subsection (2)(b);

(~~(iv))~~ (iii) The acquisition of already affiliated persons;

(~~(v))~~ (iv) An acquisition if, as an immediate result of the acquisition:

(A) In no market would the combined market share of the involved insurers exceed five percent of the total market;

(B) There would be no increase in any market share; or

(C) In no market would the:

(I) (~~The~~) Combined market share of the involved insurers exceed twelve percent of the total market; and

(II) (~~The~~) Market share increase by more than two percent of the total market.

For the purpose of this subsection (2)(b)(~~(v) of this subsection~~) (iv), a (~~the~~) market(~~;~~) means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state;

(~~(vi))~~ (v) An acquisition for which a preacquisition notification would be required under this section due solely to the resulting effect on the ocean marine insurance line of business;

(~~(vii))~~ (vi) An acquisition of an insurer whose domiciliary commissioner affirmatively finds(~~;~~) that the insurer is in failing condition(~~;~~), there is a lack of feasible alternative to improving such condition(~~;~~), and the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition; and the

findings are communicated by the domiciliary commissioner to the commissioner of this state.

(3) An acquisition covered by subsection (2) of this section may be subject to an order under subsection (5) of this section unless the acquiring person files a preacquisition notification and the waiting period has expired. The acquired person may file a preacquisition notification.

(a) The preacquisition notification must be in such form and contain such information as prescribed by the national association of insurance commissioners relating to those markets that, under subsection (2)(b)(~~(v))~~ (iv) of this section, cause the acquisition not to be exempted from this section. The commissioner may require such additional material and information as he or she deems necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subsection (4) of this section. The required information may include an opinion of an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of the person indicating his or her ability to render an informed opinion.

(b) The waiting period required begins on the date the commissioner declares the preacquisition notification to be complete and ends on the earlier of the sixtieth day after the date of the declaration or the termination of the waiting period by the commissioner. (~~Before~~) Prior to the end of the waiting period, the commissioner on a one-time basis may require the submission of additional needed information relevant to the proposed acquisition(~~(- If additional information is required)~~), in which event the waiting period ends on the earlier of the sixtieth day after (~~the commissioner declares he or she has received~~) receipt of the additional information by the commissioner or the termination of the waiting period by the commissioner.

(4)(a) The commissioner may enter an order under subsection (5)(a) of this section with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in a line of insurance in this state or tend to create a monopoly therein or if the insurer fails to file adequate information in compliance with subsection (3) of this section.

(b) In determining whether a proposed acquisition would violate the competitive standard of (a) of this subsection, the commissioner shall consider the following:

(i) An acquisition covered under subsection (2) of this section involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standards, as follows:

(A) If the market is highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
4%	4% or more
10%	2% or more
15%	1% or more; or

(B) If the market is not highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
5%	5% or more

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10%	4% or more
15%	3% or more
19%	1% or more

A highly concentrated market is one in which the share of the four largest insurers is seventy-five percent or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two insurers are involved, exceeding the total of the two columns in the table is prima facie evidence of violation of the competitive standard in (a) of this subsection. For the purpose of this subsection (4)(b)(i) (~~of this subsection~~), the insurer with the largest share of the market is Insurer A.

(ii) There is a significant trend toward increased concentration when the aggregate market share of a grouping of the largest insurers in the market, from the two largest to the eight largest, has increased by seven percent or more of the market over a period of time extending from a base year five to ten years before the acquisition up to the time of the acquisition. An acquisition or merger covered under subsection (2) of this section involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in (a) of this subsection if:

(A) There is a significant trend toward increased concentration in the market;

(B) One of the insurers involved is one of the insurers in a grouping of such large insurers showing the requisite increase in the market share; and

(C) Another involved insurer's market is two percent or more.

(iii) For the purposes of this subsection (4)(b) (~~of this subsection~~):

(A) (~~The term~~) "Insurer" includes ~~(a)~~ any company or group of companies under common management, ownership, or control;

(B) (~~The term~~) "Market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the commissioner shall give due consideration to, among other things, the definitions or guidelines, if any, adopted by the National Association of Insurance Commissioners and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, such line being that used in the annual statement required to be filed by insurers doing business in this state, and the relevant geographical market is assumed to be this state;

(C) The burden of showing prima facie evidence of violation of the competitive standard rests upon the commissioner.

(iv) Even though an acquisition is not prima facie violative of the competitive standard under (b)(i) and (ii) of this subsection, the commissioner may establish the requisite anticompetitive effect based upon other substantial evidence. Even though an acquisition is prima facie violative of the competitive standard under (b)(i) and (ii) of this subsection, a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under ~~((b)(iv) of)~~ this subsection include, but are not limited to, the following: Market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry and exit into the market.

(c) An order may not be entered under subsection (5)(a) of this section if:

(i) The acquisition will yield substantial economies of scale or economies in resource use that cannot be feasibly achieved in any other way, and the public benefits that would arise from the

economies exceed the public benefits that would arise from not lessening competition; or

(ii) The acquisition will substantially increase the availability of insurance, and the public benefits of the increase exceed the public benefits that would arise from not lessening competition.

(5)(a)(i) If an acquisition violates the standards of this section, the commissioner may enter an order:

(A) Requiring an involved insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or

(B) Denying the application of an acquired or acquiring insurer for a license to do business in this state.

(ii) (~~The commissioner~~) Such an order may not (~~enter the order~~) be entered unless:

(A) There is a hearing;

(B) Notice of the hearing is issued (~~before~~) prior to the end of the waiting period and not less than fifteen days (~~before~~) prior to the hearing; and

(C) The hearing is concluded and the order is issued no later than sixty days after the (~~end of the waiting period~~) filing of the preacquisition notification with the commissioner.

(iii) Every order must be accompanied by a written decision of the commissioner setting forth (~~his or her~~) findings of fact and conclusions of law.

(~~(iii)~~) (iv) An order entered under this subsection (5)(a) (~~of this subsection~~) may not become final earlier than thirty days after it is issued, during which time the involved insurer may submit a plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon the plan or other information, the commissioner shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the standards of this section would be remedied and the order vacated or modified.

(~~(iv)~~) (v) An order pursuant to this subsection (5)(a) (~~of this subsection~~) does not apply if the acquisition is not consummated.

(b) (~~(A)~~) Any person who violates a cease and desist order of the commissioner under (a) of this subsection and while the order is in effect, may, after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to one or more of the following:

(i) A monetary (~~penalty~~) fine of not more than ten thousand dollars for every day of violation; or

(ii) Suspension or revocation of the person's license; or

(iii) Both (b)(i) and (~~(b)~~) (ii) of this subsection.

(c) (~~(A)~~) Any insurer or other person who fails to make a filing required by this section, and who also fails to demonstrate a good faith effort to comply with the filing requirement, is subject to a civil penalty of not more than fifty thousand dollars.

(6) RCW 48.31B.045 (2) and (3) and 48.31B.050 do not apply to acquisitions covered under subsection (2) of this section.

Sec. 5. RCW 48.31B.025 and 2000 c 214 s 1 are each amended to read as follows:

(1) Every insurer that is authorized to do business in this state (~~that~~) and is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in:

(a) This section;

(b) RCW 48.31B.030 (1)(a), (2), and (3); and

(c) Either RCW 48.31B.030(1)(b) or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within fifteen days after the end of the month in which it learns of each change or addition.

~~((A))~~ Any insurer which is subject to registration under this section shall register within fifteen days after it becomes subject to registration, and annually thereafter by ~~((May 15th))~~ April 30th of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration, and then within the extended time. The commissioner may require ~~((any))~~ any insurer authorized to do business in the state that is a member of a holding company system, ~~((but that))~~ and which is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in subsection (3) of this section, or other information filed by the insurance company with the insurance regulatory authority of its domiciliary jurisdiction.

(2) ~~((A))~~ Every insurer subject to registration shall file the registration statement on a form and in a format prescribed by the national association of insurance commissioners, containing the following current information:

(a) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(b) The identity and relationship of every member of the insurance holding company system;

(c) The following agreements in force, and transactions currently outstanding or that have occurred during the last calendar year between the insurer and its affiliates:

(i) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) Purchases, sales, or exchange of assets;

(iii) Transactions not in the ordinary course of business;

(iv) Guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) All management agreements, service contracts, and cost-sharing arrangements;

(vi) Reinsurance agreements;

(vii) Dividends and other distributions to shareholders; and

(viii) Consolidated tax allocation agreements;

(d) Any pledge of the insurer's stock, including stock of subsidiary or controlling affiliate, for a loan made to a member of the insurance holding company system;

(e) If requested by the commissioner, the insurer must include financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include but are not limited to annual audited financial statements filed with the United States securities and exchange commission pursuant to the securities act of 1933, as amended, or the securities exchange act of 1934, as amended. An insurer required to file financial statements pursuant to this subsection (2)(e) may satisfy the request by providing the commissioner with the most recently filed parent corporation financial statements that have been filed with the United States securities and exchange commission;

(f) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in registration forms adopted or approved by the commissioner;

(g) Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures; and

(h) Any other information required by the commissioner by rule.

(3) All registration statements must contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(4) No information need be disclosed on the registration statement filed under subsection (2) of this section if the information is not material for the purposes of this section. Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one percent or less of an insurer's admitted assets as of ~~((the 31st day of the previous))~~ December 31st next preceding are not material for purposes of this section.

(5)(a) Subject to RCW 48.31B.030(2), each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within five business days after their declaration and ~~((at least))~~ fifteen business days before payment, and shall provide the commissioner such other information as may be required by rule.

(b) If the commissioner determines that a registered insurer's surplus as regards policyholders is not reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the commissioner may order the registered insurance company to limit or discontinue the payment of stockholder dividends until such time as the surplus is adequate.

(6) ~~((A))~~ Any person within an insurance holding company system subject to registration ~~((shall))~~ is required to provide complete and accurate information to an insurer, where the information is reasonably necessary to enable the insurer to comply with this chapter.

(7) The commissioner shall terminate the registration of an insurer that demonstrates that it no longer is a member of an insurance holding company system.

(8) The commissioner may require or allow two or more affiliated insurers subject to registration under this section to file a consolidated registration statement.

(9) The commissioner may allow an insurer authorized to do business in this state and which is part of an insurance holding company system to register on behalf of an affiliated insurer ~~((that))~~ which is required to register under subsection (1) of this section and to file all information and material required to be filed under this section.

(10) This section does not apply to an insurer, information, or transaction if and to the extent that the commissioner by rule or order exempts the insurer, information, or transaction from this section.

(11) ~~((A))~~ Any person may file with the commissioner a disclaimer of affiliation with ~~((any))~~ any authorized insurer, or ~~((any))~~ any insurer or ~~((a))~~ any member of ~~((any))~~ any insurance holding company system may file the disclaimer. The person making such a filing with the commissioner shall at the same time deliver a complete copy of the filing to each domestic insurer which is the subject of such filing. The disclaimer must fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. ~~((After a disclaimer has been filed, the insurer is relieved of any duty to register or report under this section that may arise out of the insurer's relationship with the person unless and until the commissioner disallows the disclaimer. The commissioner shall disallow the disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance.~~

~~((42))~~ A disclaimer of affiliation is deemed to have been granted unless the commissioner, within thirty days following receipt of a complete disclaimer, notifies the filing party the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party is relieved of its duty to register under this section if approval of the disclaimer has been granted by the commissioner, or if the disclaimer is deemed to have been approved.

(12) The ultimate controlling person of every insurer subject to

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registration shall also file an annual enterprise risk report. The report must, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report must be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

(13) The failure to file a registration statement or ((a)) any summary of the registration statement or enterprise risk filing required by this section within the time specified for ((the)) filing is a violation of this section.

Sec. 6. RCW 48.31B.030 and 1993 c 462 s 7 are each amended to read as follows:

(1)(a) Transactions within ((a)) an insurance holding company system to which an insurer subject to registration is a party are subject to the following standards:

(i) The terms must be fair and reasonable;

(ii) Agreements for cost-sharing services and management must include such provisions as required by rule issued by the commissioner;

(iii) Charges or fees for services performed must be fair and reasonable;

~~((iii))~~ (iv) Expenses incurred and payment received must be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

~~((iv))~~ (v) The books, accounts, and records of each party to all such transactions must be so maintained as to clearly and accurately disclose the nature and details of the transactions((s)) including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; and

~~((v))~~ (vi) The insurer's surplus regarding policyholders ~~((after))~~ following any dividends or distributions to shareholders or affiliates must be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) The following transactions involving a domestic insurer and a person in its insurance holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, which are subject to the materiality standards contained in this subsection, may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into the transaction and the commissioner declares the notice to be sufficient at least sixty days before, or such shorter period as the commissioner may permit, and the commissioner has not disapproved it within that period. The notice for amendments or modifications must include the reasons for the change and the financial impact on the domestic insurer. Informal notice must be reported, within thirty days after a termination of a previously filed agreement, to the commissioner for determination of the type of filing required, if any:

(i) Sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments if the transactions are equal to or exceed:

(A) With respect to nonlife insurers and not including health care service contractors and health maintenance organizations, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders;

(B) With respect to life insurers, three percent of the insurer's admitted assets(~~;~~ each as of the 31st day of the previous Decem-ber)) as of December 31st next preceding;

(C) With respect to health care service contractors and health maintenance organizations, the lesser of five percent of the insurer's admitted assets or twenty-five percent of its capital and surplus or net worth as of December 31st next preceding;

(ii) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, an affiliate of the insurer making the loans or extensions of credit if the transactions are equal to or exceed:

(A) With respect to nonlife insurers and not including health care service contractors and health maintenance organizations, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders;

(B) With respect to life insurers, three percent of the insurer's admitted assets(~~;~~ each as of the 31st day of the previous Decem-ber)) as of December 31st next preceding;

(C) With respect to health care service contractors and health maintenance organizations, the lesser of five percent of the insurer's admitted assets or twenty-five percent of its capital and surplus or net worth as of December 31st next preceding;

(iii) Reinsurance agreements or modifications ~~((to them))~~ thereto, including:

(A) All reinsurance pooling agreements;

(B) Agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years, equals or exceeds five percent of the insurer's surplus as regards policyholders, as of ~~((the 31st day of the previous))~~ December 31st next preceding, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of the assets will be transferred to one or more affiliates of the insurer;

(iv) All management agreements, service contracts, tax allocation agreements, guarantees, and all cost-sharing arrangements; ~~((and))~~

(v) Guarantees when made by a domestic insurer. However, a guarantee which is quantifiable as to amount is not subject to the notice requirements of this subsection (1)(b)(v) unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or ten percent of surplus as regards policyholders as of December 31st next preceding. Further, all guarantees which are not quantifiable as to amount are subject to the notice requirements of this subsection (1)(b)(v);

(vi) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount which, together with its present holdings in such investments, exceeds two and one-half percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired or authorized pursuant to chapter 48.13 RCW, or in nonsubsidiary insurance affiliates that are subject to this chapter, are exempt from this requirement; and

(vii) Any material transactions, specified by rule, ~~((that))~~ which the commissioner determines may adversely affect the interests of the insurer's policyholders.

~~((Nothing contained in this section authorizes or permits a))~~ This subsection does not authorize or permit any transaction ((that)) which, in the case of an insurer not a member of the same insurance holding company system, would be otherwise contrary to law.

(c) A domestic insurer may not enter into transactions ~~((that))~~ which are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that the separate transactions were entered into over ~~((a))~~ any twelve-month period for that purpose, the

commissioner may apply for an order as described in RCW 48.31B.045(1).

(d) The commissioner, in reviewing transactions under (b) of this subsection, ~~((shall))~~ must consider whether the transactions comply with the standards set forth in (a) of this subsection and whether they may adversely affect the interests of policyholders.

(e) The commissioner ~~((shall))~~ must be notified within thirty days of an investment of the domestic insurer in any one corporation if the total investment in the corporation by the insurance holding company system exceeds ten percent of the corporation's voting securities.

(2)(a) ~~((No))~~ A domestic insurer may not pay an extraordinary dividend or make any other extraordinary distribution to its shareholders until ~~((=---(i)))~~ thirty days after the commissioner declares that he or she has received sufficient notice of the declaration thereof and has not within that period disapproved the payment ~~((;)), or ((=))~~ until the commissioner has approved the payment within the thirty-day period.

(b) For purposes of this section, an extraordinary dividend or distribution is ~~((a))~~ any dividend or distribution of cash or other property, whose fair market value ~~((;))~~ together with that of other dividends or distributions made within the ~~((period of))~~ preceding twelve ~~((consecutive))~~ months ~~((ending on the date on which the proposed dividend is scheduled for payment or distribution,))~~ exceeds the greater of:

(i) Ten percent of the ~~((company's))~~ insurer's surplus as regards policyholders or net worth as of ~~((the 31st day of the previous))~~ December next preceding; or

(ii) The net gain from operations of the ~~((company))~~ insurer, if the ~~((company))~~ insurer is a life insurance company, or the net income if the company is not a life insurance company, for the twelve month period ending ~~((the 31st day of the previous))~~ December next preceding, but does not include pro rata distributions of any class of the ~~((company's))~~ insurer's own securities.

(c) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval. The declaration confers no rights upon shareholders until: (i) The commissioner has approved the payment of the dividend or distribution; or (ii) the commissioner has not disapproved the payment within the thirty-day period referred to in (a) of this subsection.

(3) For purposes of this chapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, ~~((may))~~ must be considered:

(a) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

(b) The extent to which the insurer's business is diversified among ~~((the))~~ several lines of insurance;

(c) The number and size of risks insured in each line of business;

(d) The extent of the geographical dispersion of the insurer's insured risks;

(e) The nature and extent of the insurer's reinsurance program;

(f) The quality, diversification, and liquidity of the insurer's investment portfolio;

(g) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

(h) The surplus as regards policyholders maintained by other comparable insurers;

(i) The adequacy of the insurer's reserves;

(j) The quality and liquidity of investments in affiliates. The commissioner may ~~((discount))~~ treat any such investment ~~((or may treat any such investment))~~ as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders

whenever in ~~((his or her))~~ the judgment of the commissioner the investment so warrants; and

(k) The quality of the insurer's earnings and the extent to which the reported earnings include extraordinary items.

(4)(a) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer are not thereby relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer must be managed so as to assure its separate operating identity consistent with this title.

(b) This section does not preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of subsection (1)(a) of this section.

(c) At least one-third of a domestic insurer's directors and at least one-third of the members of each committee of the insurer's board of directors must be persons who are not: (i) Officers or employees of the insurer or of any entity that controls, is controlled by, or is under common control with the insurer; or (ii) beneficial owners of a controlling interest in the voting securities of the insurer or of an entity that controls, is controlled by, or is under common control with the insurer. A quorum for transacting business at a meeting of the insurer's board of directors or any committee of the board of directors must include at least one person with the qualifications described in (a) of this subsection.

(d)(i) For a for-profit person, the board of directors of a domestic insurer shall establish one or more committees comprised solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers.

(ii) For a nonprofit person, the board of directors of a domestic insurer shall establish one or more committees comprised solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer. The committee or committees have responsibility for nominating candidates for director for election, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers.

(e) The provisions of (c) and (d) of this subsection do not apply to a domestic insurer if the person controlling the insurer has a board of directors and committees thereof that meet the requirements of (c) and (d) of this subsection with respect to such controlling entity.

(f) An insurer may make application to the commissioner for a waiver from the requirements of this subsection, if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the federal crop insurance corporation and federal flood program, is less than three hundred million dollars. An insurer may also make application to the commissioner for a waiver from the requirements of this subsection based upon unique circumstances. The commissioner may consider various factors including, but not limited to, the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.

Sec. 7. RCW 48.31B.035 and 1993 c 462 s 8 are each amended to read as follows:

(1) Subject to the limitation contained in this section and in addition to the powers that the commissioner has under chapter 48.03 RCW relating to the examination of insurers, the commissioner ~~((also may order an insurer registered under RCW~~

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~~48.31B.025 to produce such records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to ascertain the financial condition of the insurer or to determine compliance with this title. If the insurer fails to comply with the order, the commissioner may examine the affiliates to obtain the information))~~ has the power to examine any insurer registered under RCW 48.31B.025 and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

(2)(a) The commissioner may order any insurer registered under RCW 48.31B.025 to produce such records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to determine compliance with this title.

(b) To determine compliance with this title, the commissioner may order any insurer registered under RCW 48.31B.025 to produce information not in the possession of the insurer if the insurer can obtain access to such information pursuant to contractual relationships, statutory obligations, or other method. In the event the insurer cannot obtain the information requested by the commissioner, the insurer shall provide the commissioner a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of information. Whenever it appears to the commissioner that the detailed explanation is without merit, the commissioner may require, after notice and hearing, the insurer to pay a fine of ten thousand dollars for each day's delay, or may suspend or revoke the insurer's license. The commissioner shall transfer the fine collected under this section to the state treasurer for deposit into the general fund.

(3) The commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as are reasonably necessary to assist in the conduct of the examination under subsection (1) of this section. Any persons so retained are under the direction and control of the commissioner and shall act in a purely advisory capacity.

~~((3))~~ (4) Notwithstanding the provisions under RCW 48.03.060, each registered insurer producing for examination records, books, and papers under subsection (1) of this section ((are)) is liable for and ((shall)) must pay the expense of the examination ((in accordance with RCW 48.03.060)).

(5) In the event the insurer fails to comply with an order, the commissioner has the power to examine the affiliates to obtain the information. The commissioner also has the power to issue subpoenas, to administer oaths, and to examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court. Every person is required to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. Every person is entitled to the same fees and mileage, if claimed, as a witness as provided in RCW 48.03.070.

NEW SECTION. Sec. 8. A new section is added to chapter 48.31B RCW to read as follows:

(1) With respect to any insurer registered under RCW 48.31B.025, and in accordance with subsection (3) of this section, the commissioner has the power to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in order to determine compliance by the insurer with this title. The powers of the

commissioner with respect to supervisory colleges include, but are not limited to, the following:

- (a) Initiating the establishment of a supervisory college;
- (b) Clarifying the membership and participation of other supervisors in the supervisory college;
- (c) Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;
- (d) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing; and
- (e) Establishing a crisis management plan.

(2) Each registered insurer subject to this section is liable for and must pay the reasonable expenses of the commissioner's participation in a supervisory college in accordance with subsection (3) of this section, including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the commissioner may establish a regular assessment to the insurer for the payment of these expenses.

(3) In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management, and governance processes, and as part of the examination of individual insurers in accordance with RCW 48.31B.035, the commissioner may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal, and international regulatory agencies. The commissioner may enter into agreements in accordance with section 9(3) of this act providing the basis for cooperation between the commissioner and the other regulatory agencies, and the activities of the supervisory college. This section does not delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within its jurisdiction.

NEW SECTION. Sec. 9. A new section is added to chapter 48.31B RCW to read as follows:

(1)(a) Documents, materials, or other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to RCW 48.31B.035 and all information reported pursuant to RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, and section 8 of this act are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which it pertains, unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of policyholders, shareholders or the public is served by the publication thereof. If the commissioner determines that the interest of policyholders, shareholders, or the public is served by the publication of such documents, materials, or other information, submitted under RCW 48.31B.025(12) or an agreement submitted by an insurer in conjunction with a filing under RCW 48.31B.030(1)(b), the commissioner may publish all or any part in such manner as may be deemed appropriate provided notification is made to the party that produced the documents, materials, or other information at least five business days before such disclosure. The notified party may seek injunctive relief through expedited arbitration as provided for under (b) of this subsection to prevent

disclosure of any documents, materials, or information it believes is confidential or privileged.

(b)(i) Any demand for arbitration shall be delivered by certified mail return receipt requested, and by ordinary first-class mail. The party initiating the arbitration shall address the notice to the address last known to the initiating party in the exercise of reasonable diligence, and also, for any entity which is required to have a registered agent in the state of Washington, to the address of the registered agent. Demand for arbitration is deemed effective three days after the date deposited in the mail.

(ii) All disputes shall be heard by one qualified arbitrator, unless the parties agree to use three arbitrators. If three arbitrators are used, one shall be appointed by each of the disputing parties and the first two arbitrators shall appoint the third, who will chair the panel. The parties shall select the identity and number of the arbitrator or arbitrators after the demand for arbitration is made. If, within ten days after the effective date of the demand for arbitration, the parties fail to agree on an arbitrator or the agreed number of arbitrators fail to be appointed, then an arbitrator or arbitrators shall be appointed under RCW 7.04A.110 by the presiding judge of the superior court in Thurston county.

(iii) In any arbitration, at least one arbitrator must be a lawyer or retired judge. Any additional arbitrator must be either a lawyer or retired judge or a person who has experience with insurance industry standards and practices. No person may serve as an arbitrator in any arbitration in which that person has any past or present financial or personal interest.

(iv) The arbitration hearing must be conducted in a manner that permits full, fair, and expeditious presentation of the case by both parties. The arbitrator is bound by the law of Washington state. Parties may be, but are not required to be, represented by attorneys. The arbitrator may permit discovery to ensure a fair hearing, but may limit the scope or manner of discovery for good cause to avoid excessive delay and costs to the parties. The parties and the arbitrator shall use all reasonable efforts to complete the arbitration within thirty days of the effective date of the demand for arbitration.

(v) Except as otherwise set forth in this section, arbitration shall be conducted under chapter 7.04A RCW. The expenses of witnesses including expert witnesses shall be paid by the party producing the witnesses. All other expenses of arbitration shall be borne equally by the parties, unless all parties agree otherwise or unless the arbitrator awards expenses or any part thereof to any specified party or parties. The parties shall pay the fees of the arbitrator as and when specified by the arbitrator.

(vi) The arbitration decision shall be in writing and must set forth findings of fact and conclusions of law that support the decision.

(vii) Notwithstanding the provisions under RCW 7.04A.280, the arbitration decision shall be binding on all parties and shall not be appealable.

(2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to this chapter is permitted or may be required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the commissioner's duties, the commissioner:

(a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section, with other state, federal, and international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, with the international association of insurance supervisors and the bank for international settlements and its

affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in section 8 of this act, provided the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality;

(b) Notwithstanding (a) of this subsection, may only share confidential and privileged documents, material, or information reported pursuant to RCW 48.31B.025(12) with commissioners of states having statutes or rules substantially similar to subsection (1) of this section and who have agreed in writing not to disclose such information;

(c) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information from the national association of insurance commissioners and its affiliates and subsidiaries, the international association of insurance supervisors and the bank for international settlements and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(d) Shall enter into written agreements with the national association of insurance commissioners governing sharing and use of information provided pursuant to this chapter consistent with this subsection that shall:

(i) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the national association of insurance commissioners with other state, federal, or international regulators including the international association of insurance supervisors and the bank for international settlements and its affiliates and subsidiaries;

(ii) Specify that ownership of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter remains with the commissioner and the national association of insurance commissioners' use of the information is subject to the direction of the commissioner;

(iii) Require prompt notice to be given to an insurer whose confidential information in the possession of the national association of insurance commissioners pursuant to this chapter is subject to a request or subpoena to the national association of insurance commissioners for disclosure or production; and

(iv) Require the national association of insurance commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter.

(4) The sharing of information by the commissioner pursuant to this chapter does not constitute a delegation of regulatory authority or rule making, and the commissioner is solely responsible for the administration, execution, and enforcement of this chapter.

(5) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

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(6) Documents, materials, or other information in the possession or control of the national association of insurance commissioners pursuant to this chapter are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action.

Sec. 10. RCW 48.31B.040 and 1993 c 462 s 9 are each amended to read as follows:

The commissioner may, ((upon notice and opportunity for all interested persons to be heard, adopt rules and issue orders that are necessary to carry out)) in accordance with the administrative procedure act, chapter 34.05 RCW, adopt rules interpreting and implementing this chapter.

Sec. 11. RCW 48.31B.050 and 1993 c 462 s 11 are each amended to read as follows:

(1) The commissioner shall require, after notice and hearing, an insurer failing, without just cause, to file a registration statement as required in this chapter, to pay a penalty of not more than ten thousand dollars per day. The maximum penalty under this section is one million dollars. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer. The commissioner shall pay a fine collected under this section to the state treasurer for the account of the general fund.

(2) Every director or officer of an insurance holding company system who knowingly violates this chapter, or participates in, or assents to, or who knowingly permits an officer or agent of the insurer to engage in transactions or make investments that have not been properly reported or submitted under RCW 48.31B.025(1) or 48.31B.030(1)(b) or (2), or that violate this chapter, shall pay, in their individual capacity, a civil forfeiture of not more than ten thousand dollars per violation, after notice and hearing before the commissioner. In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(3) Whenever it appears to the commissioner that an insurer subject to this chapter or a director, officer, employee, or agent of the insurer has engaged in a transaction or entered into a contract that is subject to RCW 48.31B.030 and that would not have been approved had approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing the commissioner may also order the insurer to void any such contracts and restore the status quo if that action is in the best interest of the policyholders, creditors, or the public.

(4) Whenever it appears to the commissioner that an insurer or a director, officer, employee, or agent of the insurer has committed a willful violation of this chapter, the commissioner may refer the matter to the prosecuting attorney of Thurston county or the county in which the principal office of the insurer is located. An insurer that willfully violates this chapter may be fined not more than one million dollars. Any individual who willfully violates this chapter may be fined in his or her individual capacity not more than ten thousand dollars, or be imprisoned for not more than three years, or both.

(5) An officer, director, or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made a false statement or false report or false filing with the intent to deceive the commissioner in the performance of his or her duties under this chapter, upon conviction thereof, shall be imprisoned for not more than three years or fined not more than ten thousand dollars or both. The officer, director, or employee upon whom the fine is imposed shall pay the fine in his or her individual capacity.

(6) Whenever it appears to the commissioner that any person has committed a violation of RCW 48.31B.015 and which prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision in accordance with RCW 48.31.400.

Sec. 12. RCW 48.31B.070 and 1993 c 462 s 15 are each amended to read as follows:

(1) A person aggrieved by an act, determination, rule, order, or any other action of the commissioner under this chapter may proceed in accordance with the administrative procedure act, chapter 34.05 RCW.

(2) A person aggrieved by a failure of the commissioner to act or make a determination required by this chapter may petition the commissioner under the procedure described in ((~~RCW 34.05.330~~)) the administrative procedure act, chapter 34.05 RCW.

Sec. 13. RCW 42.56.400 and 2013 c 277 s 5 and 2013 c 65 s 5 are each reenacted and 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)) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and section 8 of this act, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140(3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; ~~(and)~~

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017; and

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5).

Sec. 14. RCW 42.56.400 and 2013 c 65 s 5 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))~~ Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and section 8 of this act, all of which are confidential and privileged;

(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;

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(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);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; and

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017.

Sec. 15. RCW 48.02.065 and 2007 c 126 s 1 are each amended to read as follows:

(1) Documents, materials, or other information as described in either subsection (5) or (6), or both, of this section are confidential by law and privileged, are not subject to public disclosure under chapter 42.56 RCW, and are not subject to subpoena directed to the commissioner or any person who received documents, materials, or other information while acting under the authority of the commissioner. The commissioner is authorized to use such documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The confidentiality and privilege created by this section and RCW 42.56.400(~~(9)~~) (8) applies only to the commissioner, any person acting under the authority of the commissioner, the national association of insurance commissioners and its affiliates and subsidiaries, regulatory and law enforcement officials of other states and nations, the federal government, and international authorities.

(2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner is permitted or required to testify in any private civil action concerning any confidential and privileged documents, materials, or information subject to subsection (1) of this section.

(3) The commissioner:

(a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section, with (i) the national association of insurance commissioners and its affiliates and subsidiaries, and (ii) regulatory and law enforcement officials of other states and nations, the federal government, and international authorities, if the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;

(b) May receive documents, materials, or information, including otherwise either confidential or privileged, or both, documents, materials, or information, from (i) the national association of insurance commissioners and its affiliates and subsidiaries, and (ii) regulatory and law enforcement officials of other states and nations, the federal government, and international authorities and shall maintain as confidential and privileged any document, material, or information received that is either confidential or privileged, or both, under the laws of the jurisdiction that is the source of the document, material, or information; and

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

(4) No waiver of an existing privilege or claim of confidentiality in the documents, materials, or information may occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

(5) Documents, materials, or information, which is either confidential or privileged, or both, which has been provided to the commissioner by (a) the national association of insurance commissioners and its affiliates and subsidiaries, (b) regulatory or law enforcement officials of other states and nations, the federal government, or international authorities, or (c) agencies of this state, is confidential and privileged only if the documents, materials, or

information is protected from disclosure by the applicable laws of the jurisdiction that is the source of the document, material, or information.

(6) Working papers, documents, materials, or information produced by, obtained by, or disclosed to the commissioner or any other person in the course of a financial or market conduct examination, or in the course of financial analysis or market conduct desk audit, are not required to be disclosed by the commissioner unless cited by the commissioner in connection with an agency action as defined in RCW 34.05.010(3). The commissioner shall notify a party that produced the documents, materials, or information five business days before disclosure in connection with an agency action. The notified party may seek injunctive relief in any Washington state superior court to prevent disclosure of any documents, materials, or information it believes is confidential or privileged. In civil actions between private parties or in criminal actions, disclosure to the commissioner under this section does not create any privilege or claim of confidentiality or waive any existing privilege or claim of confidentiality.

(7)(a) After receipt of a public disclosure request, the commissioner shall disclose the documents, materials, or information under subsection (6) of this section that relate to a financial or market conduct examination undertaken as a result of a proposed change of control of a nonprofit or mutual health insurer governed in whole or in part by chapter 48.31B (~~(or 48.31C)~~) RCW.

(b) The commissioner is not required to disclose the documents, materials, or information in (a) of this subsection if:

(i) The documents, materials, or information are otherwise privileged or exempted from public disclosure; or

(ii) The commissioner finds that the public interest in disclosure of the documents, materials, or information is outweighed by the public interest in nondisclosure in that particular instance.

(8) Any person may petition a Washington state superior court to allow inspection of information exempt from public disclosure under subsection (6) of this section when the information is connected to allegations of negligence or malfeasance by the commissioner related to a financial or market conduct examination. The court shall conduct an in-camera review after notifying the commissioner and every party that produced the information. The court may order the commissioner to allow the petitioner to have access to the information provided the petitioner maintains the confidentiality of the information. The petitioner must not disclose the information to any other person, except upon further order of the court. After conducting a regular hearing, the court may order that the information can be disclosed publicly if the court finds that there is a public interest in the disclosure of the information and the exemption of the information from public disclosure is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

Sec. 16. RCW 48.13.061 and 2011 c 188 s 7 are each amended to read as follows:

The following classes of investments may be counted for the purposes specified in RCW 48.13.101, whether they are made directly or as a participant in a partnership, joint venture, or limited liability company. Investments in partnerships, joint ventures, and limited liability companies are authorized investments only pursuant to subsection (12) of this section:

(1) Cash in the direct possession of the insurer or on deposit with a financial institution regulated by any federal or state agency of the United States;

(2) Bonds, debt-like preferred stock, and other evidences of indebtedness of governmental units in the United States or Canada, or the instrumentalities of the governmental units, or private business entities domiciled in the United States or Canada, including

asset-backed securities and securities valuation office listed mutual funds;

(3) Loans secured by first mortgages, first trust deeds, or other first security interests in real property located in the United States or Canada or secured by insurance against default issued by a government insurance corporation of the United States or Canada or by an insurer authorized to do business in this state;

(4) Common stock or equity-like preferred stock or equity interests in any United States or Canadian business entity, or shares of mutual funds registered with the securities and exchange commission of the United States under the investment company act of 1940, other than securities valuation office listed mutual funds, and, subsidiaries, as defined in RCW 48.31B.005 (~~(or 48.31C.010)~~), engaged exclusively in the following businesses:

(a) Acting as an insurance producer, surplus line broker, or title insurance agent for its parent or for any of its parent's insurer subsidiaries or affiliates;

(b) Investing, reinvesting, or trading in securities or acting as a securities broker or dealer for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

(c) Rendering management, sales, or other related services to any investment company subject to the federal investment company act of 1940, as amended;

(d) Rendering investment advice;

(e) Rendering services related to the functions involved in the operation of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims appraisal, and collection services;

(f) Acting as administrator of employee welfare benefit and pension plans for governments, government agencies, corporations, or other organizations or groups;

(g) Ownership and management of assets which the parent could itself own and manage: PROVIDED, that the aggregate investment by the insurer and its subsidiaries acquired pursuant to this subsection (4)(g) shall not exceed the limitations otherwise applicable to such investments by the parent;

(h) Acting as administrative agent for a government instrumentality which is performing an insurance function or is responsible for a health or welfare program;

(i) Financing of insurance premiums;

(j) Any other business activity reasonably ancillary to an insurance business;

(k) Owning one or more subsidiary;

(i) Insurers, health care service contractors, or health maintenance organizations to the extent permitted by this chapter;

(ii) Businesses specified in (a) through (k) of this subsection inclusive; or

(iii) Any combination of such insurers and businesses;

(5) Real property necessary for the convenient transaction of the insurer's business;

(6) Real property, together with the fixtures, furniture, furnishings, and equipment pertaining thereto in the United States or Canada, which produces or after suitable improvement can reasonably be expected to produce income;

(7) Loans, securities, or other investments of the types described in subsections (1) through (6) of this section in national association of insurance commissioners securities valuation office I debt rated countries other than the United States and Canada;

(8) Bonds or other evidences of indebtedness of international development organizations of which the United States is a member;

(9) Loans upon the security of the insurer's own policies in amounts that are adequately secured by the policies and that in no case exceed the surrender values of the policies;

(10) Tangible personal property under contract of sale or lease under which contractual payments may reasonably be expected to

return the principal of and provide earnings on the investment within its anticipated useful life;

(11) Other investments the commissioner authorizes by rule; and

(12) Investments not otherwise permitted by this section, and not specifically prohibited by statute, to the extent of not more than five percent of the first five hundred million dollars of the insurer's admitted assets plus ten percent of the insurer's admitted assets exceeding five hundred million dollars.

Sec. 17. RCW 48.97.005 and 2008 c 217 s 75 are each amended to read as follows:

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

(1) "Accredited state" means a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners.

(2) "Control" or "controlled by" has the meaning ascribed in RCW 48.31B.005(~~(2)~~) (3).

(3) "Controlled insurer" means a licensed insurer that is controlled, directly or indirectly, by a broker.

(4) "Controlling producer" means a producer who, directly or indirectly, controls an insurer.

(5) "Licensed insurer" or "insurer" means a person, firm, association, or corporation licensed to transact property and casualty insurance business in this state. The following, among others, are not licensed insurers for purposes of this chapter:

(a) ((Risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, P.L. 99-499, 100 Stat. 1613 (1986), the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq. (1982 Supp. 1986), and chapter 48.92 RCW;

(b)) All residual market pools and joint underwriting associations; and

~~((c) Captive insurers. For the purposes of this chapter, (b) captive insurers other than risk retention groups as defined in 15 U.S.C. Sec. 3901 et seq. and 42 U.S.C. Sec. 9671 are insurance companies owned by another organization(+) whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks to member organizations or group members, or both, and their affiliates.~~

(6) "Producer" means an insurance broker or brokers or any other person, firm, association, or corporation when, for compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of an insurance contract on behalf of an insured other than the person, firm, association, or corporation.

Sec. 18. RCW 48.125.140 and 2004 c 260 s 16 are each amended to read as follows:

(1) The commissioner may make an examination of the operations of any self-funded multiple employer welfare arrangement as often as he or she deems necessary in order to carry out the purposes of this chapter.

(2) Every self-funded multiple employer welfare arrangement shall submit its books and records relating to its operation for financial condition and market conduct examinations and in every way facilitate them. For the purpose of examinations, the commissioner may issue subpoenas, administer oaths, and examine the officers and principals of the (~~(self-funded))~~ self-funded multiple employer welfare arrangement.

(3) The commissioner may elect to accept and rely on audit reports made by an independent certified public accountant for the self-funded multiple employer welfare arrangement in the course of

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that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his or her report of the examination.

(4)(a) The commissioner may also examine any affiliate of the self-funded multiple employer welfare arrangement. An examination of an affiliate is limited to the activities or operations of the affiliate that may impact the financial position of the arrangement.

(b) For the purposes of this section, "affiliate" has the same meaning as defined in RCW ~~((48.31C.010))~~ 48.31B.005.

(5) Whenever an examination is made, all of the provisions of chapter 48.03 RCW not inconsistent with this chapter shall be applicable. In lieu of making an examination himself or herself, the commissioner may, in the case of a foreign self-funded multiple employer welfare arrangement, accept an examination report of the applicant by the regulatory official in its state of domicile. In the case of a domestic self-funded multiple employer welfare arrangement, the commissioner may accept an examination report of the applicant by the regulatory official of a state that has already licensed the arrangement.

Sec. 19. RCW 48.155.010 and 2010 c 27 s 4 are each amended to read as follows:

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

(1) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) "Commissioner" means the Washington state insurance commissioner.

(3)(a) "Control" or "controlled by" or "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(b) Control exists when any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person. A presumption of control may be rebutted by a showing made in the manner provided by RCW 48.31B.005~~((2))~~ (3) and 48.31B.025(11) that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(4)(a) "Discount plan" means a business arrangement or contract in which a person or organization, in exchange for fees, dues, charges, or other consideration, provides or purports to provide discounts to its members on charges by providers for health care services.

(b) "Discount plan" does not include:

(i) A plan that does not charge a membership or other fee to use the plan's discount card;

(ii) A patient access program as defined in this chapter;

(iii) A medicare prescription drug plan as defined in this chapter; or

(iv) A discount plan offered by a health carrier authorized under chapter 48.20, 48.21, 48.44, or 48.46 RCW.

(5)(a) "Discount plan organization" means a person that, in exchange for fees, dues, charges, or other consideration, provides or purports to provide access to discounts to its members on charges by providers for health care services. "Discount plan organization" also means a person or organization that contracts with providers, provider networks, or other discount plan organizations to offer

discounts on health care services to its members. This term also includes all persons that determine the charge to or other consideration paid by members.

(b) "Discount plan organization" does not mean:

(i) Pharmacy benefit managers;

(ii) Health care provider networks, when the network's only involvement in discount plans is contracting with the plan to provide discounts to the plan's members;

(iii) Marketers who market the discount plans of discount plan organizations which are licensed under this chapter as long as all written communications of the marketer in connection with a discount plan clearly identify the licensed discount plan organization as the responsible entity; or

(iv) Health carriers, if the discount on health care services is offered by a health carrier authorized under chapter 48.20, 48.21, 48.44, or 48.46 RCW.

(6) "Health care facility" or "facility" has the same meaning as in RCW 48.43.005~~((15))~~ (22).

(7) "Health care provider" or "provider" has the same meaning as in RCW 48.43.005~~((16))~~ (23).

(8) "Health care provider network," "provider network," or "network" means any network of health care providers, including any person or entity that negotiates directly or indirectly with a discount plan organization on behalf of more than one provider to provide health care services to members.

(9) "Health care services" has the same meaning as in RCW 48.43.005~~((17))~~ (24).

(10) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005~~((18))~~ (25).

(11) "Marketer" means a person or entity that markets, promotes, sells, or distributes a discount plan, including a contracted marketing organization and a private label entity that places its name on and markets or distributes a discount plan pursuant to a marketing agreement with a discount plan organization.

(12) "Medicare prescription drug plan" means a plan that provides a medicare part D prescription drug benefit in accordance with the requirements of the federal medicare prescription drug improvement and modernization act of 2003.

(13) "Member" means any individual who pays fees, dues, charges, or other consideration for the right to receive the benefits of a discount plan, but does not include any individual who enrolls in a patient access program.

(14) "Patient access program" means a voluntary program sponsored by a pharmaceutical manufacturer, or a consortium of pharmaceutical manufacturers, that provides free or discounted health care products for no additional consideration directly to low-income or uninsured individuals either through a discount card or direct shipment.

(15) "Person" means an individual, a corporation, a governmental entity, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the persons listed in this subsection.

(16)(a) "Pharmacy benefit manager" means a person that performs pharmacy benefit management for a covered entity.

(b) For purposes of this subsection, a "covered entity" means an insurer, a health care service contractor, a health maintenance organization, or a multiple employer welfare arrangement licensed, certified, or registered under the provisions of this title. "Covered entity" also means a health program administered by the state as a provider of health coverage, a single employer that provides health coverage to its employees, or a labor union that provides health coverage to its members as part of a collective bargaining agreement.

Sec. 20. RCW 48.155.015 and 2009 c 175 s 4 are each amended to read as follows:

(1) This chapter applies to all discount plans and all discount plan organizations doing business in or from this state or that affect subjects located wholly or in part or to be performed within this state, and all persons having to do with this business.

(2) A discount plan organization that is a health carrier, as defined under RCW 48.43.005, with a license, certificate of authority, or registration (~~under RCW 48.05.030 or chapter 48.31C RCW~~):

(a) Is not required to obtain a license under RCW 48.155.020, except that any of its affiliates that operate as a discount plan organization in this state must obtain a license under RCW 48.155.020 and comply with all other provisions of this chapter;

(b) Is required to comply with RCW 48.155.060 through 48.155.090 and report, in the form and manner as the commissioner may require, any of the information described in RCW 48.155.110(2) (b), (c), or (d) that is not otherwise already reported; and

(c) Is subject to RCW 48.155.130 and 48.155.140.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) RCW 48.31C.010 (Definitions) and 2001 c 179 s 1;

(2) RCW 48.31C.020 (Acquisition of a foreign health carrier--Preacquisition notification--Review) and 2001 c 179 s 2;

(3) RCW 48.31C.030 (Acquisition of a domestic health carrier--Filing--Review--Jurisdiction of courts) and 2001 c 179 s 3;

(4) RCW 48.31C.040 (Registration with commissioner--Information required--Rule making--Disclaimer of affiliation--Failure to file) and 2001 c 179 s 4;

(5) RCW 48.31C.050 (Health carrier subject to registration--Standards for transactions within a holding company system--Notice to commissioner--Review) and 2001 c 179 s 5;

(6) RCW 48.31C.060 (Extraordinary dividends or distributions--Restrictions--Definition of distribution) and 2001 c 179 s 6;

(7) RCW 48.31C.070 (Examination of health carriers--Commissioner may order production of information--Failure to comply--Costs) and 2001 c 179 s 7;

(8) RCW 48.31C.080 (Violations of chapter--Commissioner may seek superior court order) and 2001 c 179 s 8;

(9) RCW 48.31C.090 (Violations of chapter--Penalties--Civil forfeitures--Orders--Referral to prosecuting attorney--Imprisonment) and 2001 c 179 s 9;

(10) RCW 48.31C.100 (Violations of chapter--Impairment of financial condition) and 2001 c 179 s 10;

(11) RCW 48.31C.110 (Order for liquidation or rehabilitation--Recovery of distributions or payments--Liability--Maximum amount recoverable) and 2001 c 179 s 11;

(12) RCW 48.31C.120 (Violations of chapter--Contrary to interests of subscribers or the public) and 2001 c 179 s 12;

(13) RCW 48.31C.130 (Confidential proprietary and trade secret information--Exempt from public disclosure--Exceptions) and 2001 c 179 s 13;

(14) RCW 48.31C.140 (Person aggrieved by actions of commissioner) and 2001 c 179 s 15;

(15) RCW 48.31C.150 (Rule making) and 2001 c 179 s 16;

(16) RCW 48.31C.160 (Dual holding company system membership) and 2001 c 179 s 17;

(17) RCW 48.31C.900 (Severability--2001 c 179) and 2001 c 179 s 18; and

(18) RCW 48.31C.901 (Effective date--2001 c 179) and 2001 c 179 s 19.

NEW SECTION. Sec. 22. PURPOSE AND SCOPE. (1) The purpose of this chapter is to provide the requirements for

maintaining a risk management framework and completing an own risk and solvency assessment and provide guidance and instructions for filing an ORSA summary report with the insurance commissioner of this state.

(2) The requirements of this chapter apply to all insurers domiciled in this state unless exempt pursuant to section 27 of this act.

(3) The legislature finds and declares that the ORSA summary report contains confidential and sensitive information related to an insurer or insurance group's identification of risks material and relevant to the insurer or insurance group filing the report. This information includes proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if the information is made public. It is the intent of this legislature that the ORSA summary report is a confidential document filed with the commissioner, that the ORSA summary report may be shared only as stated in this chapter and to assist the commissioner in the performance of his or her duties, and that in no event may the ORSA summary report be subject to public disclosure.

NEW SECTION. Sec. 23. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Insurance group" means, for the purposes of conducting an ORSA, those insurers and affiliates included within an insurance holding company system as defined in RCW 48.31B.005.

(2) "Insurer" includes an insurer authorized under chapter 48.05 RCW, a fraternal mutual insurer or society holding a license under RCW 48.36A.290, a health care service contractor registered under chapter 48.44 RCW, a health maintenance organization registered under chapter 48.46 RCW, and a self-funded multiple employer welfare arrangement under chapter 48.125 RCW, as well as all persons engaged as, or purporting to be engaged as insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements in this state, and to persons in process of organization to become insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements, except that it does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

(3) "Own risk and solvency assessment" or "ORSA" means a confidential internal assessment, appropriate to the nature, scale, and complexity of an insurer or insurance group, conducted by that insurer or insurance group of the material and relevant risks associated with the insurer or insurance group's current business plan, and the sufficiency of capital resources to support those risks.

(4) "ORSA guidance manual" means the own risk and solvency assessment guidance manual developed and adopted by the national association of insurance commissioners.

(5) "ORSA summary report" means a confidential high-level ORSA summary of an insurer or insurance group.

NEW SECTION. Sec. 24. RISK MANAGEMENT FRAMEWORK. An insurer shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on its material and relevant risks. This requirement is satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

NEW SECTION. Sec. 25. ORSA REQUIREMENT. Subject to section 27 of this act, an insurer, or the insurance group of which the insurer is a member, shall regularly conduct an ORSA consistent with a process comparable to the ORSA guidance manual. The ORSA must be conducted annually but also at any

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time when there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

NEW SECTION. Sec. 26. ORSA SUMMARY REPORT.

(1) Upon the commissioner's request, and no more than once each year, an insurer shall submit to the commissioner an ORSA summary report or any combination of reports that together contain the information described in the ORSA guidance manual, applicable to the insurer or the insurance group of which it is a member. Notwithstanding any request from the commissioner, if the insurer is a member of an insurance group, the insurer shall submit the report or set of reports required by this subsection if the commissioner is the lead state commissioner of the insurance group as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

(2) The report shall include a signature of the insurer or insurance group's chief risk officer or other executive having responsibility for the oversight of the insurer's enterprise risk management process attesting to the best of his or her belief and knowledge that the insurer applies the enterprise risk management process described in the ORSA summary report and that a copy of the report has been provided to the insurer's board of directors or the appropriate governing committee.

(3) An insurer may comply with subsection (1) of this section by providing the most recent and substantially similar report or reports provided by the insurer or another member of an insurance group of which the insurer is a member to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the ORSA guidance manual. Any such report in a language other than English must be accompanied by a translation of that report into the English language.

NEW SECTION. Sec. 27. EXEMPTIONS. (1) An insurer is exempt from the requirements of this chapter, if:

(a) The insurer has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premium reinsured with the federal crop insurance corporation and federal flood program, less than five hundred million dollars; and

(b) The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premium reinsured with the federal crop insurance corporation and federal flood program, less than one billion dollars.

(2) If an insurer qualifies for exemption pursuant to subsection (1)(a) of this section, but the insurance group of which the insurer is a member does not qualify for exemption pursuant to subsection (1)(b) of this section, then the ORSA summary report that may be required pursuant to section 26 of this act must include every insurer within the insurance group. This requirement is satisfied by the submission of more than one ORSA summary report for any combination of insurers, provided any combination of reports includes every insurer within the insurance group.

(3) If an insurer does not qualify for exemption pursuant to subsection (1)(a) of this section, but the insurance group of which the insurer is a member does qualify for exemption pursuant to subsection (1)(b) of this section, then the only ORSA summary report that may be required pursuant to section 26 of this act is the report applicable to that insurer.

(4) If an insurer does not qualify for exemption pursuant to subsection (1)(a) of this section, the insurer may apply to the commissioner for a waiver from the requirements of this chapter based upon unique circumstances. In deciding whether to grant the insurer's request for waiver, the commissioner may consider the type and volume of business written, ownership and organizational

structure, and any other factor the commissioner considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is a part of an insurance group with insurers domiciled in more than one state, the commissioner shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.

(5) Notwithstanding the exemptions stated in this section, the commissioner may require that an insurer maintain a risk management framework, conduct an ORSA, and file an ORSA summary report (a) based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests; and (b) if the insurer has risk-based capital at the company action level event as set forth in RCW 48.05.440 or 48.43.310, meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in WAC 284-16-310, or otherwise exhibits qualities of a troubled insurer as determined by the commissioner.

(6) If an insurer that qualifies for exemption pursuant to subsection (1)(a) of this section subsequently no longer qualifies for that exemption due to changes in premium reflected in the insurer's most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer has one year following the year the threshold is exceeded to comply with the requirement of this chapter.

NEW SECTION. Sec. 28. CONTENTS OF ORSA SUMMARY REPORT. (1) The ORSA summary report shall be prepared consistent with the ORSA guidance manual, subject to the requirements of subsection (2) of this section. Documentation and supporting information must be maintained and made available upon examination or upon the request of the commissioner.

(2) The review of the ORSA summary report, and any additional requests for information, must be made using similar procedures currently used in the analysis and examination of multistate or global insurers and insurance groups.

NEW SECTION. Sec. 29. CONFIDENTIAL TREATMENT. (1) Documents, materials, or other information, including the ORSA summary report, in the possession or control of the commissioner that are obtained by, created by, or disclosed to the commissioner or any other person under this chapter, is recognized by this state as being proprietary and to contain trade secrets. All such documents, materials, or other information is confidential by law and privileged, is not subject to chapter 42.56 RCW, is not subject to subpoena, and is not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner may not otherwise make the documents, materials, or other information public without the prior written consent of the insurer.

(2) Neither the commissioner nor any person who received documents, materials, or other ORSA-related information, through examination or otherwise, while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to this chapter, is permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the commissioner's regulatory duties, the commissioner:

(a) May share documents, materials, or other ORSA-related information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section,

including proprietary and trade secret documents and materials with other state, federal, and international regulatory agencies, including members of any supervisory college under section 8(3) of this act, with the national association of insurance commissioners, with the international association of insurance supervisors and the bank for international settlements, and with any third-party consultants designated by the commissioner, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality;

(b) May receive documents, materials, or ORSA-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college under section 8(3) of this act, from the national association of insurance commissioners, the international association of insurance supervisors and the bank for international settlements, and must maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information;

(c) Shall enter into written agreements with the national association of insurance commissioners or a third-party consultant governing sharing and use of information provided pursuant to this chapter, consistent with this subsection that specifies procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners or third-party consultant pursuant to this chapter, including procedures and protocols for sharing by the national association of insurance commissioners with other state regulators from states in which the insurance group has domiciled insurers. The agreement must provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality;

(d) Shall specify that ownership of information shared with the national association of insurance commissioners or third-party consultants pursuant to this chapter remains with the commissioner and the national association of insurance commissioners' or a third-party consultant's use of the information is subject to the direction of the commissioner;

(e) Shall prohibit the national association of insurance commissioners or third-party consultant from storing the information shared pursuant to this chapter in a permanent database after the underlying analysis is completed;

(f) Shall require prompt notice to be given to an insurer whose confidential information in the possession of the national association of insurance commissioners or a third-party consultant pursuant to this chapter is subject to a request or subpoena to the national association of insurance commissioners for disclosure or production;

(g) Shall require the national association of insurance commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter; and

(h) In the case of an agreement involving a third-party consultant, shall provide the insurer's written consent.

(4) The sharing of information by the commissioner pursuant to this chapter shall not constitute a delegation of regulatory authority or rule making, and the commissioner is solely responsible for the

administration, execution, and enforcement of the provisions of this chapter.

(5) A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in this chapter.

(6) Documents, materials, or other information in the possession or control of the national association of insurance commissioners pursuant to this chapter are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action.

NEW SECTION. Sec. 30. SANCTIONS. The commissioner shall require any insurer failing, without just cause, to file the ORSA summary report as required in this chapter, after notice and hearing, to pay a fine of five hundred dollars for each day's delay, to be recovered by the commissioner and the fine collected shall be transferred to the treasurer for deposit into the state general fund. The maximum fine under this section is one hundred thousand dollars. The commissioner may reduce the fine if the insurer demonstrates to the commissioner that the imposition of the fine would constitute a financial hardship to the insurer.

Sec. 31. RCW 42.56.400 and 2013 c 277 s 5 and 2013 c 65 s 5 are each reenacted and 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)) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and section 8 of this act, all of which are confidential and privileged;

(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

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provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

- (a) "Claimant" has the same meaning as in RCW 48.140.010(2).
- (b) "Health care facility" has the same meaning as in RCW 48.140.010(6).
- (c) "Health care provider" has the same meaning as in RCW 48.140.010(7).
- (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).
- (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);
- (11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;
- (12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;
- (13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;
- (14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;
- (15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;
- (16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140(3) and (7)(a)(ii);
- (17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;
- (18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;
- (19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;
- (20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);
- (21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; ~~(and)~~
- (22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017; ~~(and)~~
- (23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5); and
- (24) Documents, materials, or information obtained by the insurance commissioner under chapter 48.-- RCW (the new chapter created in section 34 of this act).

Sec. 32. RCW 42.56.400 and 2013 c 65 s 5 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)) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2)(l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and section 8 of this act, all of which are confidential and privileged;~~
- (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:
 - (a) "Claimant" has the same meaning as in RCW 48.140.010(2).
 - (b) "Health care facility" has the same meaning as in RCW 48.140.010(6).
 - (c) "Health care provider" has the same meaning as in RCW 48.140.010(7).
 - (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).
 - (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);
 - (11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;
 - (12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;
 - (13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;
 - (14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;
 - (15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;
 - (16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140(3) and (7)(a)(ii);
 - (17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the

commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; ~~(and)~~

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017; and

(23) Documents, materials, or information obtained by the insurance commissioner under chapter 48.-- RCW (the new chapter created in section 34 of this act).

NEW SECTION. Sec. 33. 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. 34. Sections 22 through 30 and 35 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 35. SHORT TITLE. This chapter may be known and cited as the risk management and solvency assessment act.

NEW SECTION. Sec. 36. EFFECTIVE DATE. Except for sections 14 and 32 of this act, which take effect July 1, 2017, this act takes effect January 1, 2015.

NEW SECTION. Sec. 37. Sections 13 and 31 of this act expire July 1, 2017."

Senators Hobbs, Angel and Chase spoke in favor of adoption of the striking amendment.

Senator Rolfes spoke on adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Hobbs and others to Substitute House Bill No. 2461.

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

MOTION

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

On page 1, line 1 of the title, after "companies;" strike the remainder of the title and insert "amending RCW 48.31B.005, 48.31B.010, 48.31B.015, 48.31B.020, 48.31B.025, 48.31B.030, 48.31B.035, 48.31B.040, 48.31B.050, 48.31B.070, 42.56.400, 48.02.065, 48.13.061, 48.97.005, 48.125.140, 48.155.010, 48.155.015, and 42.56.400; reenacting and amending RCW 42.56.400 and 42.56.400; adding new sections to chapter 48.31B RCW; adding a new chapter to Title 48 RCW; repealing RCW 48.31C.010, 48.31C.020, 48.31C.030, 48.31C.040, 48.31C.050, 48.31C.060, 48.31C.070, 48.31C.080, 48.31C.090, 48.31C.100, 48.31C.110, 48.31C.120, 48.31C.130, 48.31C.140, 48.31C.150, 48.31C.160, 48.31C.900, and 48.31C.901; prescribing penalties; providing effective dates; and providing an expiration date."

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 2461 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs and Angel spoke in favor of passage of the bill.

Senator Fraser spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2461 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2461 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 10; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Dammeier, Dansel, Eide, Ericksen, Fain, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Lias, Litzow, McAuliffe, Nelson, O'Ban, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Schoesler, Sheldon and Tom

Voting nay: Senators Conway, Darneille, Fraser, Frockt, Hasegawa, Kohl-Welles, McCoy, Mullet, Pedersen and Rolfes

SUBSTITUTE HOUSE BILL NO. 2461 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Sheldon, President Pro Tempore assumed the chair.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1254, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Manweller and Condotta)

Addressing prevailing wage filings. Revised for 1st Substitute: Prevailing wage filings.

The measure was read the second time.

MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, Substitute House Bill No. 1254 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1254.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1254 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

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SUBSTITUTE HOUSE BILL NO. 1254, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2246, by House Committee on Environment (originally sponsored by Representatives S. Hunt, Fitzgibbon, Hudgins, Morris, Ryu, Roberts, Bergquist, Goodman and Pollet)

Regarding financing for stewardship of mercury-containing lights.

The measure was read the second time.

MOTION

On motion of Senator Honeyford, the rules were suspended, Engrossed Substitute House Bill No. 2246 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Honeyford spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2246.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2246 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Baumgartner, Benton, Billig, Chase, Cleveland, Conway, Darneille, Eide, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Keiser, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, Parlette, Pedersen, Ranker, Rolfes and Tom

Voting nay: Senators Angel, Becker, Braun, Brown, Dammeier, Dansel, Ericksen, Hatfield, Holmquist Newbry, Honeyford, King, O'Ban, Padden, Pearson, Rivers, Roach, Schoesler and Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2246, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Fain, the Senate advanced to the eighth order of business.

MOTION

Senator Holmquist Newbry moved adoption of the following resolution:

SENATE RESOLUTION 8716

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By Senators Holmquist Newbry, Parlette, Brown, Padden, Fain, Braun, Pearson, Honeyford, Hewitt, Angel, Bailey, Becker, Hill, Roach, Schoesler, Sheldon, and Baumgartner

WHEREAS, Doc Hastings was born in Spokane, Washington on February 7, 1941, to Ivan and Florence Hastings; and

WHEREAS, After graduation from Pasco High School, Congressman Hastings studied business administration at Columbia Basin College and Central Washington University; and

WHEREAS, Congressman Hastings served in the United States Army Reserve from 1963 to 1969; and

WHEREAS, Congressman Hastings ran his family owned business, Columbia Basin Paper and Supply, and established himself as a leader in the local business community; and

WHEREAS, Congressman Hastings was elected to and served in the 16th District House of Representatives from 1979 to 1987 and served as Assistant Majority Leader and Republican Caucus Chairman; and

WHEREAS, Congressman Hastings was elected to the U.S. House of Representatives in 1994; and

WHEREAS, During his tenure in the House of Representatives, Congressman Hastings established a long record of serving the people, communities, and priorities of Central Washington; and

WHEREAS, Congressman Hastings has chaired the House Committee on Natural Resources; and

WHEREAS, Congressman Hastings has chaired the House Committee on Ethics; and

WHEREAS, Congressman Hastings has chaired and founded the Congressional Nuclear Cleanup Caucus as well as cochairing the Northwest Energy Caucus; and

WHEREAS, Congressman Hastings has also served on the Rural Health Care Coalition and Specialty Crop Caucus; and

WHEREAS, Congressman Hastings is the senior Republican in Congress from the Pacific Northwest; and

WHEREAS, Congressman Hastings has devoted his life to Claire, his beloved wife, best friend, partner, and companion since 1967, and together they happily devoted their lives to their family of three children and eight grandchildren;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and congratulate Congressman Doc Hastings for his nearly 30 years of service and dedication to the citizens of the State of Washington; and

BE IT FURTHER RESOLVED, That a copy of this resolution honoring him be immediately transmitted by the Secretary of the Senate to Congressman Doc Hastings and his family.

Senators Holmquist Newbry, Parlette, Padden, Honeyford and Baumgartner spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8716.

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

MOTION

At 12:17 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 1:37 p.m. by the President Owen.

MOTION

On motion of Senator Fain, the Senate reverted to the sixth order of business.

MOTION

On motion of Senator Nelson, Senator Roach was excused.

MOTION

At 1:39 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 1:46 p.m. by President Pro Tempore.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1709, by House Committee on Appropriations Subcommittee on Education (originally sponsored by Representatives Dahlquist, Santos, Magendanz, Moscoso, Fagan, Ryu, Maxwell, Pollet and Bergquist)

Requiring a study to develop a state foreign language education interpreter training program.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Litzow be adopted:

On page 2, after line 34, insert the following:

"NEW SECTION. Sec. 3. A new section is added to chapter 28A.320 RCW to read as follows:

(1) Subject to funds appropriated for this specific purpose, by June 1, 2015, the Washington state school directors' association, with the office of the education ombuds and other interested parties, shall develop a model family language access policy and procedure for school districts.

(2) This section expires August 1, 2017.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction and the office of the education ombuds shall post information on the agency's web site regarding the phone interpretation vendors on contract with the state of Washington, including contact information.

(2) School districts are encouraged to use the phone interpretation services addressed in subsection (1) of this section to communicate with student's parents, legal guardians, and family members who have limited English proficiency."

Renumber the remaining section consecutively.

Senators McAuliffe and Litzow spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Litzow on page 2, after line 34 to Second Substitute House Bill No. 1709.

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

MOTION

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

On page 1, line 2 of the title, after "schools;" strike the remainder of the title and insert "adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.300 RCW; creating new sections; and providing an expiration date."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 1709 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Litzow spoke in favor of passage of the bill.

MOTION

On motion of Senator Fain, Senator Holmquist Newbry was excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1709 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1709 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Erickson, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Rivers, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Angel, Brown, Dansel and Padden

Excused: Senators Holmquist Newbry and Roach

SECOND SUBSTITUTE HOUSE BILL NO. 1709 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2700, by Representatives Stonier, Riccelli, Ryu, Senn, Habib, Fey, Ormsby, Morrell, Gregerson, Tarleton, Pollet and Freeman

Creating breast cancer awareness special license plates.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, House Bill No. 2700 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Eide and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2700.

ROLL CALL

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The Secretary called the roll on the final passage of House Bill No. 2700 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Rolfes, Schoesler, Sheldon and Tom

Excused: Senators Holmquist Newbry and Roach

HOUSE BILL NO. 2700, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2111, by House Committee on Transportation (originally sponsored by Representatives Farrell, Hayes, Fey, Rodne, Zeiger, Fitzgibbon, Morrell, Jinkins, Moscoso, Ryu and Freeman)

Concerning the enforcement of regional transit authority fares.

The measure was read the second time.

MOTION

Senator Liias moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 81.112.210 and 2009 c 279 s 5 are each amended to read as follows:

(1) An authority is authorized to establish, by resolution, a schedule of fines and penalties for civil infractions established in RCW 81.112.220. Fines established by ~~((a regional transit))~~ an authority shall not exceed those imposed for class 1 infractions under RCW 7.80.120.

(2)(a) ~~((A regional transit))~~ An authority may designate persons to monitor fare payment who are equivalent to and are authorized to exercise all the powers of an enforcement officer, defined in RCW 7.80.040. An authority is authorized to employ personnel to either monitor fare payment, or to contract for such services, or both.

(b) In addition to the specific powers granted to enforcement officers under RCW 7.80.050 and 7.80.060, persons designated to monitor fare payment also have the authority to take the following actions:

- (i) Request proof of payment from passengers;
- (ii) Request personal identification from a passenger who does not produce proof of payment when requested;
- (iii)(A) Issue a ~~((citation conforming to the requirements established in RCW 7.80.070))~~ notice of infraction to passengers who do not produce proof of payment when requested.

(B) The notice of infraction form to be used for violations under this subsection must be approved by the administrative office of the courts and must not include vehicle information; and

(iv) Request that a passenger leave the ~~((regional transit))~~ authority facility when the passenger has not produced proof of payment after being asked to do so by a person designated to monitor fare payment.

(3) ~~((Regional transit))~~ Authorities shall keep records of citations in the manner prescribed by RCW 7.80.150. All civil infractions established by chapter 20, Laws of 1999 shall be heard and determined by a district or municipal court as provided in RCW 7.80.010 (1), (2), and (4)."

Senator Liias spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 2111.

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

MOTION

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

On page 1, line 2 of the title, after "fares;" strike the remainder of the title and insert "; and amending RCW 81.112.210."

MOTION

On motion of Senator Liias, the rules were suspended, Engrossed Substitute House Bill No. 2111 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Liias spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2111 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2111 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 38; Nays, 11; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Benton, Billig, Chase, Cleveland, Conway, Darneille, Eide, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hill, Hobbs, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Angel, Baumgartner, Becker, Braun, Brown, Dammeier, Dansel, Ericksen, Hewitt, Holmquist Newbry and Pearson

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2111 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2430, by House Committee on Health Care & Wellness (originally sponsored by Representatives Riccelli, Schmick and Ormsby)

Concerning athletic trainers.

The measure was read the second time.

MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, Substitute House Bill No. 2430 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2430.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2430 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frock, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senator Angel

SUBSTITUTE HOUSE BILL NO. 2430, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

SENATE BILL NO. 5310,
SENATE BILL NO. 5999,
SENATE BILL NO. 6035,
SENATE BILL NO. 6093,
SUBSTITUTE SENATE BILL NO. 6124,
SUBSTITUTE SENATE BILL NO. 6273,
SUBSTITUTE SENATE BILL NO. 6333,
SENATE BILL NO. 6405,
SUBSTITUTE SENATE BILL NO. 6442,
SUBSTITUTE SENATE BILL NO. 6446,
SUBSTITUTE SENATE JOINT MEMORIAL NO. 8007,
SENATE CONCURRENT RESOLUTION NO. 8409.

MOTION

On motion of Senator Billig, Senator Ranker was excused.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2493, by House Committee on Finance (originally sponsored by Representatives Wilcox, Tharinger, Buys, Lytton, Vick, Orcutt, Reykdal, Springer and Haigh)

Concerning current use valuation for land primarily used for commercial horticultural purposes.

The measure was read the second time.

MOTION

Senator Hatfield moved that the following committee striking amendment by the Committee on Agriculture, Water & Rural Economic Development be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to clarify and update the description of farm and agricultural land as it is used under the property tax open space program. Modern technology and water quality and labor regulations have all caused nurseries to increasingly grow plants in containers rather than in the ground. Growing plants in containers preserves topsoil, allows more plants to be grown per acre, allows soil and nutrients to be customized for each type of plant, allows more efficient use of water and fertilizer, allows year round harvest and sales, and reduces labor cost and injuries.

Sec. 2. RCW 84.34.020 and 2011 c 101 s 1 are each amended to read as follows:

~~(As used in this chapter, unless a different meaning is required by the context.)~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Open space land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly, or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or (c) any land meeting the definition of farm and agricultural conservation land under subsection (8) of this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b)(iii) of this subsection for the purpose of promoting conservation of wetlands.

(2) "Farm and agricultural land" means:

(a) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:

(i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;

(ii) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or

(iii) Other similar commercial activities as may be established by rule;

(b)(i) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to, as of January 1, 1993:

(A) One hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(B) On or after January 1, 1993, two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;

(ii) For the purposes of (b)(i) of this subsection, "gross income from agricultural uses" includes, but is not limited to, the wholesale

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value of agricultural products donated to nonprofit food banks or feeding programs;

(c) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income as of January 1, 1993, of:

(i) One thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(ii) On or after January 1, 1993, fifteen hundred dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter. Parcels of land described in (b)(i)(A) and (c)(i) of this subsection will, upon any transfer of the property excluding a transfer to a surviving spouse or surviving state registered domestic partner, be subject to the limits of (b)(i)(B) and (c)(ii) of this subsection;

(d) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which meet one of the following criteria:

(i) Has produced a gross income from agricultural uses equivalent to two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;

(ii) Has standing crops with an expectation of harvest within seven years, except as provided in (d)(iii) of this subsection, and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year. For the purposes of this subsection (2)(d)(ii), "standing crop" means Christmas trees, vineyards, fruit trees, or other perennial crops that: (A) Are planted using agricultural methods normally used in the commercial production of that particular crop; and (B) typically do not produce harvestable quantities in the initial years after planting; or

(iii) Has a standing crop of short rotation hardwoods with an expectation of harvest within fifteen years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year;

(e) Any lands including incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed twenty percent of the classified land and the land on which appurtenances necessary to the production, preparation, or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands";

(f) The land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes; ((e))

(g) Any land that is used primarily for equestrian related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed and that otherwise meet the requirements of (a), (b), or (c) of this subsection; or

(h) Any land primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not, subject to the following:

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(i) The land is not primarily used for the storage, care, or selling of plants purchased from other growers for retail sale;

(ii) If the land is less than five acres and used primarily to grow plants in containers, such land does not qualify as "farm and agricultural land" if more than twenty-five percent of the land used primarily to grow plants in containers is open to the general public for on-site retail sales;

(iii) If more than twenty percent of the land used for growing plants in containers qualifying under this subsection (2)(h) is covered by pavement, none of the paved area is eligible for classification as "farm and agricultural land" under this subsection (2)(h). The eligibility limitations described in this subsection (2)(h)(iii) do not affect the land's eligibility to qualify under (e) of this subsection; and

(iv) If the land classified under this subsection (2)(h), in addition to any contiguous land classified under this subsection, is less than twenty acres, it must meet the applicable income or investment requirements in (b), (c), or (d) of this subsection.

(3) "Timber land" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than ten percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

(4) "Current" or "currently" means as of the date on which property is to be listed and valued by the assessor.

(5) "Owner" means the party or parties having the fee interest in land, except that where land is subject to real estate contract "owner" means the contract vendee.

(6)(a) "Contiguous" means land adjoining and touching other property held by the same ownership. Land divided by a public road, but otherwise an integral part of a farming operation, is considered contiguous.

(b) For purposes of this subsection (6):

(i) "Same ownership" means owned by the same person or persons, except that parcels owned by different persons are deemed held by the same ownership if the parcels are:

(A) Managed as part of a single operation; and

(B) Owned by:

(I) Members of the same family;

(II) Legal entities that are wholly owned by members of the same family; or

(III) An individual who owns at least one of the parcels and a legal entity or entities that own the other parcel or parcels if the entity or entities are wholly owned by that individual, members of his or her family, or that individual and members of his or her family.

(ii) "Family" includes only:

(A) An individual and his or her spouse or domestic partner, child, stepchild, adopted child, grandchild, parent, stepparent, grandparent, cousin, or sibling;

(B) The spouse or domestic partner of an individual's child, stepchild, adopted child, grandchild, parent, stepparent, grandparent, cousin, or sibling;

(C) A child, stepchild, adopted child, grandchild, parent, stepparent, grandparent, cousin, or sibling of the individual's spouse or the individual's domestic partner; and

(D) The spouse or domestic partner of any individual described in (b)(ii)(C) of this subsection (6).

(7) "Granting authority" means the appropriate agency or official who acts on an application for classification of land pursuant to this chapter.

(8) "Farm and agricultural conservation land" means either:

(a) Land that was previously classified under subsection (2) of this section, that no longer meets the criteria of subsection (2) of this section, and that is reclassified under subsection (1) of this section; or

(b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

NEW SECTION. Sec. 3. The amendments to RCW 84.34.020, as provided in section 2 of this act, are intended to clarify an ambiguity in an existing tax preference, and are therefore exempt from the requirements of RCW 82.32.805 and 82.32.808."

Senator Hatfield spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture, Water & Rural Economic Development to Engrossed Second Substitute House Bill No. 2493.

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

MOTION

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

On page 1, line 2 of the title, after "purposes;" strike the remainder of the title and insert "amending RCW 84.34.020; and creating new sections."

MOTION

On motion of Senator Hatfield, the rules were suspended, Engrossed Second Substitute House Bill No. 2493 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hatfield and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2493 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2493 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senator Liias

Excused: Senator Ranker

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2493 as amended by the Senate, having received the

constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2253, by Representatives Manweller, Sells, Johnson and Ryu

Concerning telecommunications installations.

The measure was read the second time.

MOTION

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

On page 4, after line 13, insert the following:

"**Sec. 2.** RCW 19.28.191 and 2013 c 23 s 30 are each amended to read as follows:

(1) Upon receipt of the application, the department shall review the application and determine whether the applicant is eligible to take an examination for the master journey level electrician, journey level electrician, master specialty electrician, or specialty electrician certificate of competency.

(a) Before July 1, 2005, an applicant who possesses a valid journey level electrician certificate of competency in effect for the previous four years and a valid general administrator's certificate may apply for a master journey level electrician certificate of competency without examination.

(b) Before July 1, 2005, an applicant who possesses a valid specialty electrician certificate of competency, in the specialty applied for, for the previous two years and a valid specialty administrator's certificate, in the specialty applied for, may apply for a master specialty electrician certificate of competency without examination.

(c) Before December 1, 2003, the following persons may obtain an equipment repair specialty electrician certificate of competency without examination:

(i) A person who has successfully completed an apprenticeship program approved under chapter 49.04 RCW for the machinist trade; and

(ii) A person who provides evidence in a form prescribed by the department affirming that: (A) He or she was employed as of April 1, 2003, by a factory-authorized equipment dealer or service company; and (B) he or she has worked in equipment repair for a minimum of four thousand hours.

(d) To be eligible to take the examination for a master journey level electrician certificate of competency, the applicant must have possessed a valid journey level electrician certificate of competency for four years.

(e) To be eligible to take the examination for a master specialty electrician certificate of competency, the applicant must have possessed a valid specialty electrician certificate of competency, in the specialty applied for, for two years.

(f) To be eligible to take the examination for a journey level certificate of competency, the applicant must have:

(i) Worked in the electrical construction trade for a minimum of eight thousand hours, of which four thousand hours shall be in industrial or commercial electrical installation under the supervision of a master journey level electrician or journey level electrician and not more than a total of four thousand hours in all specialties under the supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's

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specialty. Specialty electricians with less than a four thousand hour work experience requirement cannot credit the time required to obtain that specialty towards qualifying to become a journey level electrician; or

(ii) Successfully completed an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade.

(g)(i) To be eligible to take the examination for a specialty electrician certificate of competency, the applicant must have:

((+)) (A) Worked in the residential (as specified in WAC 296-46B-920(2)(a)), pump and irrigation (as specified in WAC 296-46B-920(2)(b)), sign (as specified in WAC 296-46B-920(2)(d)), limited energy (as specified in WAC 296-46B-920(2)(e)), nonresidential maintenance (as specified in WAC 296-46B-920(2)(g)), or other new nonresidential specialties as determined by the department in rule under the supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty for a minimum of four thousand hours;

((+)) (B) Worked in the appliance repair specialty as determined by the department in rule, restricted nonresidential maintenance as determined by the department in rule, the equipment repair specialty as determined by the department in rule, the pump and irrigation specialty other than as defined by (g)(i)(A) of this subsection or domestic pump specialty as determined by the department in rule, or a specialty other than the designated specialties in (g)(i)(A) of this subsection for a minimum of the initial ninety days, or longer if set by rule by the department. The restricted nonresidential maintenance specialty is limited to a maximum of 277 volts and 20 amperes for lighting branch circuits and/or a maximum of 250 volts and 60 amperes for other circuits, but excludes the replacement or repair of circuit breakers. The initial period must be spent under one hundred percent supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. After this initial period, a person may take the specialty examination. If the person passes the examination, the person may work unsupervised for the balance of the minimum hours required for certification. A person may not be certified as a specialty electrician in the appliance repair specialty or in a specialty other than the designated specialties in (g)(i)(A) of this subsection, however, until the person has worked a minimum of two thousand hours in that specialty, or longer if set by rule by the department; or

((+)) (C) Successfully completed an approved apprenticeship program under chapter 49.04 RCW for the applicant's specialty in the electrical construction trade(~~(+)~~).

((+)) (ii) In meeting the training requirements for the pump and irrigation or domestic pump specialties, the individual shall be allowed to obtain the experience required by this section at the same time the individual is meeting the experience required by RCW 18.106.040(1)(c). After meeting the training requirements provided in this section, the individual may take the examination and upon passing the examination, meeting additional training requirements as may still be required for those seeking a pump and irrigation, or a domestic pump specialty certificate as defined by rule, and paying the applicable fees, the individual must be issued the appropriate certificate. The department may include an examination for specialty plumbing certificate defined in RCW 18.106.010(10)(c) with the examination required by this section. The department, by rule and in consultation with the electrical board, may establish additional equivalent ways to gain the experience requirements required by this subsection. Individuals

who are able to provide evidence to the department, prior to January 1, 2007, that they have been employed as a pump installer in the pump and irrigation or domestic pump business by an appropriately licensed electrical contractor, registered general contractor defined by chapter 18.27 RCW, or appropriate general specialty contractor defined by chapter 18.27 RCW for not less than eight thousand hours in the most recent six calendar years shall be issued the appropriate certificate by the department upon receiving such documentation and applicable fees. The department shall establish a single document for those who have received both an electrical specialty certification as defined by this subsection and have also met the certification requirements for the specialty plumber as defined by RCW 18.106.010(10)(c), showing that the individual has received both certifications. No other experience or training requirements may be imposed.

(iii) Before July 1, 2015, an applicant possessing an electrical training certificate issued by the department is eligible to apply one hour of every two hours of unsupervised telecommunications system installation work experience toward eligibility for examination for a limited energy system certificate of competency (as specified in WAC 296-46B-920(2)(e)), if:

(A) The telecommunications work experience was obtained while employed by a contractor licensed under this chapter as a general electrical contractor (as specified in WAC 296-46B-920(1)) or limited energy system specialty contractor (as specified in WAC 296-46B-920(2)(e)); and

(B) Evidence of the telecommunications work experience is submitted in the form of an affidavit prescribed by the department.

(h) Any applicant for a journey level electrician certificate of competency who has successfully completed a two-year program in the electrical construction trade at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to two years of the technical or trade school program for two years of work experience under a master journey level electrician or journey level electrician. The applicant shall obtain the additional two years of work experience required in industrial or commercial electrical installation prior to the beginning, or after the completion, of the technical school program. Any applicant who has received training in the electrical construction trade in the armed service of the United States may be eligible to apply armed service work experience towards qualification to take the examination for the journey level electrician certificate of competency.

(i) An applicant for a specialty electrician certificate of competency who, after January 1, 2000, has successfully completed a two-year program in the electrical construction trade at a public community or technical college, or a not-for-profit nationally accredited technical or trade school licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to one year of the technical or trade school program for one year of work experience under a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Any applicant who has received training in the electrical construction trade in the armed services of the United States may be eligible to apply armed service work experience towards qualification to take the examination for an appropriate specialty electrician certificate of competency.

(j) The department must determine whether hours of training and experience in the armed services or school program are in the electrical construction trade and appropriate as a substitute for hours of work experience. The department must use the following

criteria for evaluating the equivalence of classroom electrical training programs and work in the electrical construction trade:

(i) A two-year electrical training program must consist of three thousand or more hours.

(ii) In a two-year electrical training program, a minimum of two thousand four hundred hours of student/instructor contact time must be technical electrical instruction directly related to the scope of work of the electrical specialty. Student/instructor contact time includes lecture and in-school lab.

(iii) The department may not allow credit for a program that accepts more than one thousand hours transferred from another school's program.

(iv) Electrical specialty training school programs of less than two years will have all of the above student/instructor contact time hours proportionately reduced. Such programs may not apply to more than fifty percent of the work experience required to attain certification.

(v) Electrical training programs of less than two years may not be credited towards qualification for journey level electrician unless the training program is used to gain qualification for a four thousand hour electrical specialty.

(k) No other requirement for eligibility may be imposed.

(2) The department shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the department shall consult with the board. Upon determination that the applicant is eligible to take the examination, the department shall so notify the applicant, indicating the time and place for taking the examination.

(3) No noncertified individual may work unsupervised more than one year beyond the date when the trainee would be eligible to test for a certificate of competency if working on a full-time basis after original application for the trainee certificate. For the purposes of this section, "full-time basis" means two thousand hours."

On page 4, line 14, after "NEW SECTION," strike "**Sec. 2. This**" and insert "**Sec. 3. Section 1 of this**"

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Holmquist Newbry and others on page 4, after line 13 to House Bill No. 2253.

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

MOTION

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

On page 1, line 1 of the title, after "installations;" strike the remainder of the title and insert "amending RCW 19.28.400 and 19.28.191; and declaring an emergency."

MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, House Bill No. 2253 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2253 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2253 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Excused: Senator Ranker

HOUSE BILL NO. 2253 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2463, by House Committee on Transportation (originally sponsored by Representatives S. Hunt, Johnson, Reykdal, Pike, Clibborn, Orcutt and Freeman)

Concerning special parking privileges for persons with disabilities.

The measure was read the second time.

MOTION

Senator Eide moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that there is a history of abuse of special parking privileges for persons with disabilities that requires changes to maintain public safety and good order.

(2) It is the intent of the legislature to: (a) Decrease the amount of unlawful use of special parking privileges for persons with disabilities; (b) not create additional burdens for those in need of special parking privileges for persons with disabilities; (c) provide local jurisdictions with the authority to improve their administration of on-street parking; (d) encourage the department of licensing to implement the recommendations of the disabled parking work group in regards to placard and application changes; and (e) encourage the department of licensing to consider parking information system upgrades related to special parking privileges for persons with disabilities in its pursuit of technology modernization.

Sec. 2. RCW 46.19.010 and 2011 c 96 s 32 are each amended to read as follows:

(1) A natural person who has a disability that meets one of the following criteria may apply for special parking privileges:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Has such a severe disability that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

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(e) Is restricted by lung disease to an extent that forced expiratory respiratory volume, when measured by spirometry, is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American heart association;

(g) Has a disability resulting from an acute sensitivity to automobile emissions that limits or impairs the ability to walk. The personal physician, advanced registered nurse practitioner, or physician assistant of the applicant shall document that the disability is comparable in severity to the others listed in this subsection;

(h) Has limited mobility and has no vision or whose vision with corrective lenses is so limited that the person requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by persons with normal vision;

(i) Has an eye condition of a progressive nature that may lead to blindness; or

(j) Is restricted by a form of porphyria to the extent that the applicant would significantly benefit from a decrease in exposure to light.

(2) The disability must be determined by either:

(a) A licensed physician;

(b) An advanced registered nurse practitioner licensed under chapter 18.79 RCW; or

(c) A physician assistant licensed under chapter 18.71A or 18.57A RCW.

(3) A health care practitioner listed under subsection (2) of this section must provide a signed written authorization on tamper-resistant prescription pad or paper, as defined in RCW 18.64.500, if the practitioner has prescriptive authority. An authorized health care practitioner without prescriptive authority must provide the signed written authorization on his or her office letterhead. Such authorizations must be attached to the application for special parking privileges for persons with disabilities.

(4) The application for special parking privileges for persons with disabilities must contain:

(a) The following statement immediately below the physician's, advanced registered nurse practitioner's, or physician assistant's signature: "A parking permit for a person with disabilities may be issued only for a medical necessity that severely affects mobility or involves acute sensitivity to light (RCW 46.19.010). ~~((Knowingly providing false information on this application is a gross misdemeanor.))~~ An applicant or health care practitioner who knowingly provides false information on this application is guilty of a gross misdemeanor. The penalty is up to three hundred sixty-four days in jail and a fine of up to \$5,000 or both. In addition, the health care practitioner may be subject to sanctions under chapter 18.130 RCW, the Uniform Disciplinary Act"; and

(b) Other information as required by the department.

~~((4))~~ (5) A natural person who has a disability described in subsection (1) of this section and is expected to improve within ~~((six))~~ twelve months may be issued a temporary placard for a period not to exceed ~~((six))~~ twelve months. If the disability exists after ~~((six))~~ twelve months, a new temporary placard must be issued upon receipt of a new application with certification from the person's physician as prescribed in subsections (3) and (4) of this section. Special license plates for persons with disabilities may not be issued to a person with a temporary disability.

~~((5))~~ (6) A natural person who qualifies for special parking privileges under this section must receive an identification card showing the name and date of birth of the person to whom the parking privilege has been issued and the serial number of the placard.

~~((6))~~ (7) A natural person who qualifies for permanent special parking privileges under this section may receive one of the following:

(a) Up to two parking placards;

(b) One set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed;

(c) One parking placard and one set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed; or

(d) One special parking year tab for persons with disabilities and one parking placard.

~~((7))~~ (8) Parking placards and identification cards described in this section must be issued free of charge.

~~((8))~~ (9) The parking placard and identification card must be immediately returned to the department upon the placard holder's death.

Sec. 3. RCW 46.19.020 and 2012 c 10 s 42 are each amended to read as follows:

(1) The following organizations may apply for special parking privileges:

(a) Public transportation authorities;

(b) Nursing homes licensed under chapter 18.51 RCW;

(c) Assisted living facilities licensed under chapter 18.20 RCW;

(d) Senior citizen centers;

(e) Accessible van rental companies registered under RCW 46.87.023;

(f) Private nonprofit corporations, as defined in RCW 24.03.005; and

~~((#))~~ (g) Cabulance companies that regularly transport persons with disabilities who have been determined eligible for special parking privileges under this section and who are registered with the department under chapter 46.72 RCW.

(2) An organization that qualifies for special parking privileges may receive, upon application, ~~((parking))~~ special license plates or parking placards, or both, for persons with disabilities as defined by the department.

(3) Public transportation authorities, nursing homes, assisted living facilities, senior citizen centers, accessible van rental companies, private nonprofit corporations, and cabulance services are responsible for ensuring that the ~~((special))~~ parking placards and special license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) The department shall adopt rules to determine organization eligibility.

Sec. 4. RCW 46.19.030 and 2010 c 161 s 704 are each amended to read as follows:

(1) The department shall design special license plates for persons with disabilities, parking placards, and year tabs displaying the international symbol of access.

(2) Special license plates for persons with disabilities must be displayed on the motor vehicle as standard issue license plates as described in RCW 46.16A.200.

(3) Parking placards must include both a serial number and the expiration date on the face of the placard. The expiration date and serial number must be of a sufficient size as to be easily visible from a distance of ten feet from where the placard is displayed.

(4) Parking placards must be displayed when the motor vehicle is parked by suspending it from the rearview mirror. In the absence of a rearview mirror, the parking placard must be displayed on the dashboard. The parking placard must be displayed in a manner that allows for the entire placard to be viewed through the vehicle windshield.

~~((4))~~ (5) Special year tabs for persons with disabilities must be displayed on license plates as defined by the department.

~~((5))~~ (6) Persons who have been issued special license plates for persons with disabilities, parking placards, or special license plates with a special year tab for persons with disabilities may park in places reserved for persons with physical disabilities.

Sec. 5. RCW 46.19.040 and 2010 c 161 s 703 are each amended to read as follows:

(1) Parking privileges for persons with disabilities must be renewed at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges. Satisfactory proof must include a signed written authorization from a health care practitioner as required in RCW 46.19.010(3).

(2) The department shall match and purge its database of parking permits issued to persons with disabilities with available death record information at least every twelve months.

(3) The department shall adopt rules to administer the parking privileges for persons with disabilities program.

Sec. 6. RCW 46.19.050 and 2011 c 171 s 74 are each amended to read as follows:

(1) **False information.** Knowingly providing false information in conjunction with the application for special parking privileges for persons with disabilities is a gross misdemeanor punishable under chapter 9A.20 RCW.

(2) **Unauthorized use.** Any unauthorized use of the ~~((special))~~ parking placard, special license ~~((plate))~~ plate, special year tab, or identification card issued under this chapter is a parking infraction with a monetary penalty of two hundred fifty dollars. In addition to any penalty or fine imposed under this subsection, two hundred dollars must be assessed. For the purpose of this subsection, "unauthorized use" includes (a) any use of a parking placard, special license plate, special year tab, or identification card that is expired, inactivated, faked, forged, or counterfeited, (b) any use of a parking placard, special license plate, special year tab, or identification card of another holder if the initial holder is no longer eligible to use or receive it, and (c) any use of a parking placard, special license plate, special year tab, or identification card of another holder even if permitted to do so by the holder.

(3) **Inaccessible access.** It is a parking infraction, with a monetary penalty of two hundred fifty dollars, for a person to stop, stand, or park in, block, or otherwise make inaccessible the access aisle located next to a space reserved for persons with physical disabilities. In addition to any penalty or fine imposed under this subsection, two hundred dollars must be assessed. The clerk of the court shall report all violations related to this subsection to the department.

(4) **Parking without placard/plate.** It is a parking infraction, with a monetary penalty of two hundred fifty dollars, for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under this chapter. In addition to any penalty or fine imposed under this subsection, two hundred dollars must be assessed. If a person is charged with a violation, the person will not be determined to have committed an infraction if the person ~~((produces in court or before the court appearance the placard or special license plate))~~ establishes that the person operating the vehicle or being transported at the time of the infraction had a valid placard, special license plate, or special year tab issued under this chapter as required under this chapter. ~~((A local jurisdiction providing nonmetered, on-street parking places reserved for persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places.))~~ Such person must sign a statement under penalty of perjury that the placard, special license plate, or special year tab produced prior to the court appearance was

valid at the time of infraction and issued under this chapter as required under this chapter.

(5) **Time restrictions.** A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this chapter. All time restrictions must be clearly posted.

(6) **Improper display of placard/plate.** It is a parking infraction, with a monetary penalty of two hundred fifty dollars, to fail to fully display a placard or special license plate issued under this chapter while parked in a public place on private property without charge, while parked on public property reserved for persons with physical disabilities, or while parking free of charge as allowed under RCW 46.61.582. In addition to any penalty or fine imposed under this subsection, two hundred dollars must be assessed, for a total of four hundred fifty dollars. For the purpose of this subsection, "fully display" means hanging or placing the placard or special license plate so that the full face of the placard or license plate is visible, including the serial number and expiration date of the license plate or placard. If a person is charged with a violation of this subsection, that person will not be determined to have committed an infraction if the person produces in court or before the court appearance a valid identification card issued to that person under RCW 46.19.010.

~~((6))~~ (7) **Allocation and use of funds - reimbursement.** (a) The assessment imposed under subsections (2), (3), ~~((and))~~ (4), and (6) of this section must be allocated as follows:

(i) One hundred dollars must be deposited in the accessible communities account created in RCW 50.40.071; and

(ii) One hundred dollars must be deposited in the multimodal transportation account under RCW 47.66.070 for the sole purpose of supplementing a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation that is administered by the department of transportation.

(b) Any reduction in any penalty or fine and assessment imposed under subsections (2), (3), ~~((and))~~ (4), and (6) of this section must be applied proportionally between the penalty or fine and the assessment. When a reduced penalty is imposed under subsection (2), (3), ~~((or))~~ (4), or (6) of this section, the amount deposited in the accounts identified in (a) of this subsection must be reduced equally and proportionally.

(c) The penalty or fine amounts must be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs that it may have incurred in the removal and storage of the improperly parked vehicle.

~~((7))~~ (8) **Illegal obtainment.** Except as provided in subsection (1) of this section, it is a ~~((traffic infraction with a monetary penalty of two hundred fifty dollars))~~ misdemeanor punishable under chapter 9A.20 RCW for any person willfully to obtain a special license plate, placard, special year tab, or identification card issued under this chapter in a manner other than that established under this chapter.

~~((8))~~ (9) **Sale of a placard/plate/tab/card.** It is a misdemeanor punishable under chapter 9A.20 RCW for any person to sell a placard, special license plate, special year tab, or identification card issued under this chapter.

(10) **Volunteer appointment.** A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of subsections (2), (3), (4), and (6) of this section or RCW ~~((46.19.010 and))~~ 46.19.030 or 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications that the agency deems desirable.

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(a) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(b) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a ~~((police))~~ peace officer for the same offense.

(c) A ~~((police))~~ peace officer or a volunteer may request a person to show the person's identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

~~((9))~~ (11) **Surrender of a placard/plate/tab/card.** If a person is found to have violated the special parking privileges provided in this chapter, and unless an appeal of that finding is pending, a judge may order that the person surrender his or her placard, special license plate, special year tab, or identification card issued under this chapter.

(12) **Community restitution.** For second or subsequent violations of this section, in addition to a monetary penalty, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves persons with disabilities or disabling diseases; or

(b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons with disabilities.

~~((10))~~ (13) **Fine suspension.** The court may not suspend more than one-half of any fine imposed under subsection (2), (3), (4), or ~~((7))~~ (6) of this section.

Sec. 7. RCW 46.61.582 and 2011 c 171 s 80 are each amended to read as follows:

~~(1)~~ (1) Any person who meets the criteria for special parking privileges under RCW 46.19.010 ~~((shall))~~ must be allowed free of charge to park a vehicle being used to transport ~~((that person))~~ the holder of such special parking privileges for unlimited periods of time in parking zones or areas, including zones or areas with parking meters ~~((which))~~ that are otherwise restricted as to the length of time parking is permitted, except zones in which parking is limited pursuant to RCW 46.19.050(5). ~~((This section does not apply to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.))~~ The person ~~((shall))~~ must obtain and display a ~~((special))~~ parking placard or special license plate under RCW 46.19.010 and 46.19.030 to be eligible for the privileges under this section.

(2) This section does not apply to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or that are reserved for special types of vehicles.

Sec. 8. RCW 46.61.583 and 1991 c 339 s 26 are each amended to read as follows:

A special license plate or card issued by another state or country that indicates an occupant of the vehicle ~~((is disabled))~~ has a disability entitles the vehicle on or in which it is displayed and being used to transport the ~~((disabled))~~ person with disabilities to the same ~~((overtime))~~ parking privileges granted under this chapter to a vehicle with a similar special license plate or card issued by this state.

Sec. 9. RCW 46.63.020 and 2013 2nd sp.s. c 23 s 21 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.457(1)(b)(i) relating to a false statement regarding the inspection of and installation of equipment on wheeled all-terrain vehicles;

(2) RCW 46.09.470(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(3) RCW 46.09.480 relating to operation of nonhighway vehicles;

(4) RCW 46.10.490(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(5) RCW 46.10.495 relating to the operation of snowmobiles;

(6) Chapter 46.12 RCW relating to certificates of title, registration certificates, and markings indicating that a vehicle has been destroyed or declared a total loss;

(7) RCW 46.16A.030 and 46.16A.050(3) relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(8) RCW 46.16A.520 relating to permitting unauthorized persons to drive;

(9) RCW 46.16A.320 relating to vehicle trip permits;

(10) RCW 46.19.050(1) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(11) RCW 46.19.050(8) relating to illegally obtaining a parking placard, special license plate, special year tab, or identification card;

(12) RCW 46.19.050(9) relating to sale of a parking placard, special license plate, special year tab, or identification card;

(13) RCW 46.20.005 relating to driving without a valid driver's license;

~~((12))~~ (14) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

~~((13))~~ (15) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

~~((14))~~ (16) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

~~((15))~~ (17) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

~~((16))~~ (18) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;

~~((17))~~ (19) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

~~((18))~~ (20) RCW 46.20.750 relating to circumventing an ignition interlock device;

~~((19))~~ (21) RCW 46.25.170 relating to commercial driver's licenses;

~~((20))~~ (22) Chapter 46.29 RCW relating to financial responsibility;

~~((21))~~ (23) RCW 46.30.040 relating to providing false evidence of financial responsibility;

~~((22))~~ (24) RCW 46.35.030 relating to recording device information;

~~((23))~~ (25) RCW 46.37.435 relating to wrongful installation of sunscreening material;

~~((24))~~ (26) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

~~((25))~~ (27) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

~~((26))~~ (28) RCW 46.37.685 relating to switching or flipping license plates, utilizing technology to flip or change the appearance of a license plate, selling a license plate flipping device or

technology used to change the appearance of a license plate, or falsifying a vehicle registration;

~~((27))~~ (29) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

~~((28))~~ (30) RCW 46.48.175 relating to the transportation of dangerous articles;

~~((29))~~ (31) RCW 46.52.010 relating to duty on striking an unattended car or other property;

~~((30))~~ (32) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

~~((31))~~ (33) RCW 46.52.090 relating to reports by repairers, storage persons, and appraisers;

~~((32))~~ (34) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

~~((33))~~ (35) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

~~((34))~~ (36) RCW 46.55.035 relating to prohibited practices by tow truck operators;

~~((35))~~ (37) RCW 46.55.300 relating to vehicle immobilization;

~~((36))~~ (38) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;

~~((37))~~ (39) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

~~((38))~~ (40) RCW 46.61.022 relating to failure to stop and give identification to an officer;

~~((39))~~ (41) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

~~((40))~~ (42) RCW 46.61.212(4) relating to reckless endangerment of emergency zone workers;

~~((41))~~ (43) RCW 46.61.500 relating to reckless driving;

~~((42))~~ (44) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((43))~~ (45) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

~~((44))~~ (46) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

~~((45))~~ (47) RCW 46.61.522 relating to vehicular assault;

~~((46))~~ (48) RCW 46.61.5249 relating to first degree negligent driving;

~~((47))~~ (49) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

~~((48))~~ (50) RCW 46.61.530 relating to racing of vehicles on highways;

~~((49))~~ (51) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

~~((50))~~ (52) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((51))~~ (53) RCW 46.61.740 relating to theft of motor vehicle fuel;

~~((52))~~ (54) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((53))~~ (55) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((54))~~ (56) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((55))~~ (57) RCW 46.68.010 relating to false statements made to obtain a refund;

~~((56))~~ (58) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((57))~~ (59) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((58))~~ (60) RCW 46.72A.060 relating to limousine carrier insurance;

~~((59))~~ (61) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

~~((60))~~ (62) RCW 46.72A.080 relating to false advertising by a limousine carrier;

~~((61))~~ (63) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((62))~~ (64) Chapter 46.82 RCW relating to driver's training schools;

~~((63))~~ (65) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

~~((64))~~ (66) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

NEW SECTION. Sec. 10. This act takes effect July 1, 2015."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 2463.

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

MOTION

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

On page 1, line 2 of the title, after "disabilities;" strike the remainder of the title and insert "amending RCW 46.19.010, 46.19.020, 46.19.030, 46.19.040, 46.19.050, 46.61.582, 46.61.583, and 46.63.020; creating a new section; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Eide, the rules were suspended, Engrossed Substitute House Bill No. 2463 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Eide and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2463 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2463 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dandel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Excused: Senator Ranker

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2463 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2612, by House Committee on Appropriations Subcommittee on Education (originally sponsored by Representatives Hansen, Haler, Zeiger and Seaquist)

Changing provisions relating to the opportunity scholarship.

The measure was read the second time.

MOTION

Senator Bailey moved that the following committee striking amendment by the Committee on Higher Education be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.145.010 and 2013 c 39 s 13 are each amended to read as follows:

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

(1) "Board" means the ~~((higher education coordinating board or its successor))~~ opportunity scholarship board.

(2) "Council" means the student achievement council.

~~___~~(3) "Eligible education programs" means high employer demand and other programs of study as determined by the ~~((opportunity scholarship))~~ board.

~~((3))~~ (4) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses as determined by the program administrator in consultation with the ~~((board))~~ council and the state board for community and technical colleges.

~~((4))~~ (5) "Eligible student" means a resident student who received his or her high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington and who:

(a)(i) Has been accepted at a four-year institution of higher education into an eligible education program leading to a baccalaureate degree; or

(ii) Will attend a two-year institution of higher education and intends to transfer to an eligible education program at a four-year institution of higher education;

(b) Declares an intention to obtain a baccalaureate degree; and

(c) Has a family income at or below one hundred twenty-five percent of the state median family income at the time the student applies for an opportunity scholarship.

~~((5))~~ (6) "High employer demand program of study" has the same meaning as provided in RCW 28B.50.030.

~~((6))~~ (7) "Participant" means an eligible student who has received a scholarship under the opportunity scholarship program.

~~((7))~~ (8) "Program administrator" means a college scholarship organization that is a private nonprofit corporation registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code, with expertise in managing scholarships and college advising.

~~((8))~~ (9) "Resident student" has the same meaning as provided in RCW 28B.15.012.

Sec. 2. RCW 28B.145.020 and 2011 1st sp.s. c 13 s 3 are each amended to read as follows:

(1) The opportunity scholarship board is created. The ~~((opportunity scholarship))~~ board consists of ~~((seven))~~ eleven members:

(a) ~~((Three))~~ Six members appointed by the governor. For ~~((two))~~ three of the ~~((three))~~ six appointments, the governor shall

consider names from a list provided by the president of the senate and the speaker of the house of representatives; and

(b) ~~((Four))~~ Five foundation or business and industry representatives appointed by the governor from among the state's most productive industries such as aerospace, manufacturing, health ~~((sciences))~~ care, information technology, engineering, agriculture, and others, as well as philanthropy. The foundation or business and industry representatives shall be selected from among nominations provided by the private sector donors to the opportunity scholarship and opportunity expansion programs. However, the governor may request, and the private sector donors shall provide, an additional list or lists from which the governor shall select these representatives.

(2) Board members shall hold their offices for a term of four years from the first day of September and until their successors are appointed. No more than the terms of two members may expire simultaneously on the last day of August in any one year.

(3) The members of the ~~((opportunity scholarship))~~ board shall elect one of the business and industry representatives to serve as chair.

(4) ~~((Five))~~ Seven members of the board constitute a quorum for the transaction of business. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor or the president of the senate or the speaker of the house of representatives, depending upon which made the initial appointment to that position, shall fill the vacancy for the remainder of the term of the board member whose office has become vacant or expired.

(5) The ~~((opportunity scholarship))~~ board shall be staffed by the program administrator.

(6) The purpose of the ~~((opportunity scholarship))~~ board is to provide oversight and guidance for the opportunity expansion and the opportunity scholarship programs in light of established legislative priorities and to fulfill the duties and responsibilities under this chapter, including but not limited to determining eligible education programs for purposes of the opportunity scholarship program. Duties, exercised jointly with the program administrator, include soliciting funds and setting annual fund-raising goals.

(7) The ~~((opportunity scholarship))~~ board may report to the governor and the appropriate committees of the legislature with recommendations as to:

(a) Whether some or all of the scholarships should be changed to conditional scholarships that must be repaid in the event the participant does not complete the eligible education program; and

(b) A source or sources of funds for the opportunity expansion program in addition to the voluntary contributions of the high technology research and development tax credit under RCW 82.32.800.

Sec. 3. RCW 28B.145.030 and 2011 1st sp.s. c 13 s 4 are each amended to read as follows:

(1) The program administrator, under contract with the ~~((board))~~ council, shall staff the ~~((opportunity scholarship))~~ board and shall have the duties and responsibilities provided in this chapter, including but not limited to publicizing the program, selecting participants for the opportunity scholarship award, distributing opportunity scholarship awards, and achieving the maximum possible rate of return on investment of the accounts in subsection (2) of this section, while ensuring transparency in the investment decisions and processes. Duties, exercised jointly with the ~~((opportunity scholarship))~~ board, include soliciting funds and setting annual fund-raising goals. The program administrator shall be paid an administrative fee as determined by the ~~((opportunity scholarship))~~ board.

(2) With respect to the opportunity scholarship program, the program administrator shall:

(a) Establish and manage two separate accounts into which to receive grants and contributions from private sources as well as state

matching funds, and from which to disburse scholarship funds to participants;

(b) Solicit and accept grants and contributions from private sources, via direct payment, pledge agreement, or escrow account, of private sources for deposit into one or both of the two accounts created in this subsection (2)(b) in accordance with this subsection (2)(b):

(i) The "scholarship account," whose principal may be invaded, and from which scholarships must be disbursed beginning no later than December 1, 2011, if, by that date, state matching funds in the amount of five million dollars or more have been received. Thereafter, scholarships shall be disbursed on an annual basis beginning no later than May 1, 2012, and every ~~(May)~~ October 1st thereafter;

(ii) The "endowment account," from which scholarship moneys may be disbursed from earnings only in years when:

(A) The state match has been made into both the scholarship and the endowment account;

(B) The state appropriations for the state need grant under RCW 28B.92.010 meet or exceed state appropriations for the state need grant made in the 2011-2013 biennium, adjusted for inflation, and eligibility for state need grant recipients is at least seventy percent of state median family income; and

(C) The state has demonstrated progress toward the goal of 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, as defined, measured, and reported in RCW 28B.15.068. In any year in which the office of financial management reports that the state has not made progress toward this goal, no new scholarships may be awarded. In any year in which the office of financial management reports that the percentile of total per-student funding is less than the sixtieth percentile and at least five percent less than the prior year, pledges of future grants and contributions may, at the request of the donor, be released and grants and contributions already received refunded to the extent that opportunity scholarship awards already made can be fulfilled from the funds remaining in the endowment account. In fulfilling the requirements of this subsection, the office of financial management shall use resources that facilitate measurement and comparisons of the most recently completed academic year. These resources may include, but are not limited to, the data provided in a uniform dashboard format under RCW 28B.77.090 as the statewide public four-year dashboard and academic year reports prepared by the state board for community and technical colleges; ~~(and)~~

(iii) An amount equal to at least fifty percent of all grants and contributions must be deposited into the scholarship account until such time as twenty million dollars have been deposited into the account, after which time the private donors may designate whether their contributions must be deposited to the scholarship or the endowment account. The ~~((opportunity scholarship))~~ board and the program administrator must work to maximize private sector contributions to both the scholarship account and the endowment account, to maintain a robust scholarship program while simultaneously building the endowment, and to determine the division between the two accounts in the case of undesignated grants and contributions, taking into account the need for a long-term funding mechanism and the short-term needs of families and students in Washington. The first five million dollars in state match, as provided in RCW 28B.145.040, shall be deposited into the scholarship account and thereafter the state match shall be deposited into the two accounts in equal proportion to the private funds deposited in each account; and

(iv) Once moneys in the opportunity scholarship match transfer account are subject to an agreement under RCW 28B.145.050(5) and are deposited in the scholarship account or endowment account

under this section, the state acts in a fiduciary rather than ownership capacity with regard to those assets. Assets in the scholarship account and endowment account are not considered state money, common cash, or revenue to the state;

(c) Provide proof of receipt of grants and contributions from private sources to the ~~((board))~~ council, identifying the amounts received by name of private source and date, and whether the amounts received were deposited into the scholarship or the endowment account;

(d) In consultation with the ~~((higher education coordinating board))~~ council and the state board for community and technical colleges, make an assessment of the reasonable annual eligible expenses associated with eligible education programs identified by the ~~((opportunity scholarship))~~ board;

(e) Determine the dollar difference between tuition fees charged by institutions of higher education in the 2008-09 academic year and the academic year for which an opportunity scholarship is being distributed;

(f) Develop and implement an application, selection, and notification process for awarding opportunity scholarships;

(g) Determine the annual amount of the opportunity scholarship for each selected participant. The annual amount shall be at least one thousand dollars or the amount determined under (e) of this subsection, but may be increased on an income-based, sliding scale basis up to the amount necessary to cover all reasonable annual eligible expenses as assessed pursuant to (d) of this subsection, or to encourage participation in baccalaureate degree programs identified by the ~~((opportunity scholarship))~~ board;

(h) Distribute scholarship funds to selected participants. Once awarded, and to the extent funds are available for distribution, an opportunity scholarship shall be automatically renewed until the participant withdraws from or is no longer attending the program, completes the program, or has taken the credit or clock hour equivalent of one hundred twenty-five percent of the published length of time of the participant's program, whichever occurs first, and as long as the participant annually submits documentation of filing both a free application for federal student aid and for available federal education tax credits, including but not limited to the American opportunity tax credit; and

(i) Notify institutions of scholarship recipients who will attend their institutions and inform them of the terms of the students' eligibility.

(3) With respect to the opportunity expansion program, the program administrator shall:

(a) Assist the ~~((opportunity scholarship))~~ board in developing and implementing an application, selection, and notification process for making opportunity expansion awards; and

(b) Solicit and accept grants and contributions from private sources for opportunity expansion awards.

NEW SECTION. Sec. 4. A new section is added to chapter 28B.145 RCW to read as follows:

(1) The board may elect to have the state investment board invest the funds in the scholarship account and endowment account described under RCW 28B.145.030(2)(b). If the board so elects, the state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the two accounts. All investment and operating costs associated with the investment of money shall be paid under 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 accounts.

(2) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care under RCW 43.33A.140 and the investment policy established by the state investment board.

(3) As deemed appropriate by the state investment board, money in the scholarship and endowment accounts may be

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commingled for investment with other funds subject to investment by the state investment board.

(4) Members of the state investment board shall not be considered an insurer of the funds or assets and are not liable for any action or inaction.

(5) Members of 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 state investment board in its discretion may purchase liability insurance for members.

(6) The authority to establish all policies relating to the scholarship account and the endowment account, other than the investment policies as provided in subsections (1) through (3) of this section, resides with the board and program administrator acting in accordance with the principles set forth in this chapter. With the exception of expenses of the state investment board in subsection (1) of this section, disbursements from the scholarship account and endowment account shall be made only on the authorization of the opportunity scholarship board or its designee, and moneys in the accounts may be spent only for the purposes specified in this chapter.

(7) The state investment board shall routinely consult and communicate with the board on the investment policy, earnings of the accounts, and related needs of the program.

Sec. 5. RCW 28B.145.050 and 2011 1st sp.s. c 13 s 6 are each amended to read as follows:

(1) The opportunity scholarship match transfer account is created in the custody of the state treasurer as a nonappropriated account to be used solely and exclusively for the opportunity scholarship program created in RCW 28B.145.040. The purpose of the account is to provide matching funds for the opportunity scholarship program.

(2) Revenues to the account shall consist of appropriations by the legislature into the account and any gifts, grants, or donations received by the executive director of the ~~((board))~~ council for this purpose.

(3) No expenditures from the account may be made except upon receipt of proof, by the executive director of the ~~((board))~~ council from the program administrator, of private contributions to the opportunity scholarship program. Expenditures, in the form of matching funds, may not exceed the total amount of private contributions.

(4) Only the executive director of the ~~((board))~~ council or the executive director's designee may authorize expenditures from the opportunity scholarship match transfer account. Such authorization must be made as soon as practicable following receipt of proof as required under subsection (3) of this section.

(5) The council shall enter into an appropriate agreement with the program administrator to demonstrate exchange of consideration for the matching funds.

Sec. 6. RCW 28B.145.060 and 2013 c 39 s 14 are each amended to read as follows:

(1) The opportunity expansion program is established.

(2) The ~~((opportunity scholarship))~~ board shall select institutions of higher education to receive opportunity expansion awards. In so doing, the ~~((opportunity scholarship))~~ board must:

(a) Solicit, receive, and evaluate proposals from institutions of higher education that are designed to directly increase the number of baccalaureate degrees produced in high employer demand and other programs of study, and that include annual numerical targets for the number of such degrees, with a strong emphasis on serving students who received their high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington or are adult Washington residents who are returning to school to gain a baccalaureate degree;

(b) Develop criteria for evaluating proposals and awarding funds to the proposals deemed most likely to increase the number of baccalaureate degrees and degrees produced in high employer demand and other programs of study;

(c) Give priority to proposals that include a partnership between public and private partnership entities that leverage additional private funds;

(d) Give priority to proposals that are innovative, efficient, and cost-effective, given the nature and cost of the particular program of study;

(e) Consult and operate in consultation with existing higher education stakeholders, including but not limited to: Faculty, labor, student organizations, and relevant higher education agencies; and

(f) Determine which proposals to improve and accelerate the production of baccalaureate degrees in high employer demand and other programs of study will receive opportunity expansion awards for the following state fiscal year, notify the state treasurer, and announce the awards.

(3) The state treasurer, at the direction of the ~~((opportunity scholarship))~~ board, must distribute the funds that have been awarded to the institutions of higher education from the opportunity expansion account.

(4) Institutions of higher education receiving awards under this section may not supplant existing general fund state revenues with opportunity expansion awards.

(5) Annually, the office of financial management shall report to the ~~((opportunity scholarship))~~ board, the governor, and the relevant committees of the legislature regarding the percentage of Washington households with incomes in the middle-income bracket or higher. For purposes of this section, "middle-income bracket" means household incomes between two hundred and five hundred percent of the 2010 federal poverty level, as determined by the United States department of health and human services for a family of four, adjusted annually for inflation.

(6) Annually, the ~~((student achievement))~~ council must report to the ~~((opportunity scholarship))~~ board, the governor, and the relevant committees of the legislature regarding the increase in the number of degrees in high employer demand and other programs of study awarded by institutions of higher education over the average of the preceding ten academic years.

(7) In its comprehensive plan, the workforce training and education coordinating board shall include specific strategies to reach the goal of increasing the percentage of Washington households living in the middle-income bracket or higher, as calculated by the office of financial management and developed by the agency or education institution that will lead the strategy.

Sec. 7. RCW 28B.145.070 and 2011 1st sp.s. c 13 s 8 are each amended to read as follows:

(1) ~~((By December 1, 2012, and))~~ Annually each December 1st ~~((thereafter))~~, the ~~((opportunity scholarship))~~ board, together with the program administrator, shall report to the ~~((board))~~ council, the governor, and the appropriate committees of the legislature regarding the opportunity scholarship and opportunity expansion programs, including but not limited to:

(a) Which education programs the ~~((opportunity scholarship))~~ board determined were eligible for purposes of the opportunity scholarship;

(b) The number of applicants for the opportunity scholarship, disaggregated, to the extent possible, by race, ethnicity, gender, county of origin, age, and median family income;

(c) The number of participants in the opportunity scholarship program, disaggregated, to the extent possible, by race, ethnicity, gender, county of origin, age, and median family income;

(d) The number and amount of the scholarships actually awarded, and whether the scholarships were paid from the scholarship account or the endowment account;

(e) The institutions and eligible education programs in which opportunity scholarship participants enrolled, together with data regarding participants' completion and graduation;

(f) The total amount of private contributions and state match moneys received for the opportunity scholarship program, how the funds were distributed between the scholarship and endowment accounts, the interest or other earnings on the accounts, and the amount of any administrative fee paid to the program administrator; and

(g) Identification of the programs the ((~~opportunity scholarship~~)) board selected to receive opportunity expansion awards and the amount of such awards.

(2) In the next succeeding legislative session following receipt of a report required under subsection (1) of this section, the appropriate committees of the legislature shall review the report and consider whether any legislative action is necessary with respect to either the opportunity scholarship program or the opportunity expansion program, including but not limited to consideration of whether any legislative action is necessary with respect to the nature and level of focus on high employer demand fields and the number and amount of scholarships."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Higher Education to Substitute House Bill No. 2612.

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

MOTION

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

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 28B.145.010, 28B.145.020, 28B.145.030, 28B.145.050, 28B.145.060, and 28B.145.070; and adding a new section to chapter 28B.145 RCW."

MOTION

On motion of Senator Bailey, the rules were suspended, Substitute House Bill No. 2612 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Bailey and Kohl-Welles spoke in favor of passage of the bill.

Senator Hasegawa spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2612 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2612 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson,

O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Angel, Chase, Dinsel and Hasegawa

SUBSTITUTE HOUSE BILL NO. 2612 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Frockt, Senator Nelson was excused.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1651, by House Committee on Appropriations Subcommittee on General Government & Information Technology (originally sponsored by Representatives Kagi, Walsh, Freeman, Roberts, Farrell, Zeiger, Goodman, Pollet, Sawyer, Appleton, Bergquist, S. Hunt, Moscoso, Jinkins, Ryu and Morrell)

Concerning access to juvenile records.

The measure was read the second time.

MOTION

Senator O'Ban moved that the following committee striking amendment by the Committee on Human Services & Corrections be not adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.50.010 and 2013 c 23 s 6 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of the family and children's ombuds, the department of social and health services and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(d) "Social file" means the juvenile court file containing the records and reports of the probation counselor.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

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(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. ~~((The court shall release to the caseload forecast council records needed for its research and data-gathering functions. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved.))~~ Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) The court shall release to the caseload forecast council the records needed for its research and data-gathering functions. Access to caseload forecast data may be permitted by the council for research purposes only if the anonymity of all persons mentioned in the records or information will be preserved.

(10) Juvenile detention facilities shall release records to the caseload forecast council upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

~~((10))~~ (11) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombuds.

~~((11))~~ (12) For the purpose of research only, the administrative office of the courts shall maintain an electronic research copy of all records in the judicial information system related to juveniles. Access to the research copy is restricted to the Washington state center for court research. The Washington state center for court research shall maintain the confidentiality of all confidential records and shall preserve the anonymity of all persons identified in the research copy. The research copy may not be subject to any records retention schedule and must include records destroyed or

removed from the judicial information system pursuant to RCW 13.50.050 ~~((17) and~~) (18) and (19) and 13.50.100(3).

~~((12))~~ (13) The court shall release to the Washington state office of public defense records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.70.020. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of public defense. The Washington state office of public defense shall maintain the confidentiality of all confidential information included in the records.

Sec. 2. RCW 13.50.050 and 2012 c 177 s 2 are each 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))~~ (13) 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)(a) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place no later than thirty days after the last day of probation ordered, if any; or if the respondent has been sentenced to the juvenile rehabilitation administration, no later than thirty days after release from confinement, or the completion of parole, if any is required by law, unless one of the offenses for which the court has entered a disposition is:

- (i) A serious violent offense, as defined in RCW 9.94A.030;
- (ii) A sex offense under chapter 9A.44 RCW;
- (iii) Arson in the first degree or criminal solicitation of or criminal conspiracy to commit arson in the first degree;
- (iv) Assault of a child in the second degree;
- (v) Kidnapping in the second degree;
- (vi) Leading organized crime; or
- (vii) Malicious placement of an explosive in the first degree.

(b) At the administrative sealing hearing, the court shall enter a written order sealing the juvenile court file unless, upon the objection of any person or other compelling reason identified by the court, the court determines that sealing is not appropriate after weighing the competing privacy interests of the juvenile with the interests identified by the person opposed to sealing or with another compelling reason identified by the court, with a presumption in favor of sealing the juvenile court file. The respondent and his or her attorney shall be given notice and an opportunity to respond to any objection.

(c) The respondent's presence at the administrative sealing hearing is not required.

(d) The court shall enter a written order immediately sealing the official juvenile court file:

(i) Upon receipt of notification that the respondent has performed his or her obligations under a diversion agreement as provided in RCW 13.40.080(12)(d);

(ii) Upon the acquittal after a fact finding or upon dismissal of charges; or

(iii) If the prosecutor does not file charges within seventy-two hours after a juvenile has been taken into custody pursuant to RCW 13.40.050.

(12) If a juvenile court file has not already been sealed pursuant to subsection (11) of this section, 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 who is 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))~~ (24) 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.

~~((42))~~ (13)(a) The court shall ~~((not))~~ grant any motion to seal records for class A offenses made pursuant to subsection ~~((44))~~ (12) of this section ~~((that is filed on or after July 1, 1997, unless))~~ if:

(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 ~~((44))~~ (12) of this section ~~((unless))~~ if:

(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 June 7, 2012, if restitution has been paid and the person is eighteen years of age or older at the time of the motion.

~~((43))~~ (14) The person making a motion pursuant to subsection ~~((44))~~ (12) 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.

~~((44))~~ (15)(a) If the court enters a written order sealing the juvenile court file pursuant to subsection (11) of this section or grants ~~((the))~~ a motion to seal ~~((made))~~ pursuant to subsection ~~((44))~~ (12) of this section, it shall, subject to subsection ~~((23))~~ (24) 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.

~~((45))~~ (16) 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

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information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection ~~((23))~~ (24) of this section.

~~((16))~~ (17) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying ~~((the))~~ a sealing order; however, the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria under subsection (11) or (12) of this section and the court record has not previously been resealed. 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))~~ (18)(a)(i) Subject to subsection ~~((23))~~ (24) 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))~~ (24) 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))~~ (24) 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))~~ (19) If the court grants the motion to destroy records made pursuant to subsection ~~((17))~~ (18)(c) or (d) of this section, it shall, subject to subsection ~~((23))~~ (24) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

~~((19))~~ (20) The person making the motion pursuant to subsection ~~((17))~~ (18)(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))~~ (21) 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))~~ (22) 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))~~ (23) Any juvenile justice or care agency may, subject to the limitations in subsection ~~((23))~~ (24) 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))~~ (18)(a) of this section.

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

~~((23))~~ (24) Except for subsection ~~((17))~~ (18)(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))~~ (25) 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."

On page 1, line 1 of the title, after "records;" strike the remainder of the title and insert "and amending RCW 13.50.010 and 13.50.050."

The President declared the question before the Senate to be the motion by Senator O'Ban to not adopt the committee striking amendment by the Committee on Human Services & Corrections to Second Substitute House Bill No. 1651.

The motion by Senator O'Ban carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator O'Ban moved that the following striking amendment by Senators O'Ban and Darneille be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that:

(1) The primary goal of the Washington state juvenile justice system is the rehabilitation and reintegration of former juvenile

offenders. The public has a compelling interest in the rehabilitation of former juvenile offenders and their successful reintegration into society as active, law-abiding, and contributing members of their communities. When juvenile court records are publicly available, former juvenile offenders face substantial barriers to reintegration, as they are denied housing, employment, and education opportunities on the basis of these records.

(2) The legislature declares it is the policy of the state of Washington that the interest in juvenile rehabilitation and reintegration constitutes compelling circumstances that outweigh the public interest in continued availability of juvenile court records. The legislature intends that juvenile court proceedings be openly administered but, except in limited circumstances, the records of these proceedings be closed when the juvenile has reached the age of eighteen and completed the terms of disposition.

Sec. 2. RCW 13.50.010 and 2013 c 23 s 6 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of the family and children's ombuds, the department of social and health services and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(d) "Social file" means the juvenile court file containing the records and reports of the probation counselor.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may

make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. ~~((The court shall release to the caseload forecast council records needed for its research and data-gathering functions. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved.))~~ Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) The court shall release to the caseload forecast council the records needed for its research and data-gathering functions. Access to caseload forecast data may be permitted by the council for research purposes only if the anonymity of all persons mentioned in the records or information will be preserved.

(10) Juvenile detention facilities shall release records to the caseload forecast council upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

~~((+0))~~ (11) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombuds.

~~((+1))~~ (12) For the purpose of research only, the administrative office of the courts shall maintain an electronic research copy of all records in the judicial information system related to juveniles. Access to the research copy is restricted to the Washington state center for court research. The Washington state center for court research shall maintain the confidentiality of all confidential records and shall preserve the anonymity of all persons identified in the research copy. The research copy may not be subject to any records retention schedule and must include records destroyed or removed from the judicial information system pursuant to ~~((RCW 13.50.050 (17) and (18)))~~ section 5 of this act and RCW 13.50.100(3).

~~((+2))~~ (13) The court shall release to the Washington state office of public defense records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.70.020. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of public defense. The Washington state office of public defense shall maintain the confidentiality of all confidential information included in the records.

Sec. 3. RCW 13.50.050 and 2012 c 177 s 2 are each amended to read as follows:

(1) This section and sections 4 and 5 of this act govern(s) 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 4 of this act.

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(3) All records other than the official juvenile court file are confidential and may be released only as provided in this ~~(section)~~ ~~chapter, RCW ((13.50.010,))~~ 13.40.215((9)) and 4.24.550.

(4) Except as otherwise provided in this ~~(section and RCW 13.50.010))~~ ~~chapter~~, 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 June 7, 2012, 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 or section 4 or 5 of this act 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.

~~((24))~~ (12) Nothing in this section or section 4 or 5 of this act 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))~~ (13) Except ~~((for subsection (17)(b) of this section))~~ as provided in section 5(2) of this act, 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))~~ (14) 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.

NEW SECTION. Sec. 4. A new section is added to chapter 13.50 RCW to read as follows:

(1)(a) The court shall hold regular sealing hearings. During these regular sealing hearings, the court shall administratively seal an individual's juvenile court record pursuant to the requirements of this subsection unless the court receives an objection to sealing or the court notes a compelling reason not to seal, in which case, the court shall set a contested hearing to be conducted on the record to address sealing. The respondent and his or her attorney shall be given at least eighteen days' notice of any contested sealing hearing and the opportunity to respond to any objections, but the respondent's presence is not required at any sealing hearing pursuant to this subsection.

(b) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place during the first regularly scheduled sealing hearing after the latest of the following events that apply:

(i) The respondent's eighteenth birthday;

(ii) Anticipated completion of a respondent's probation, if ordered;

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(iii) Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

(c) A court shall enter a written order sealing an individual's juvenile court record pursuant to this subsection if:

(i) One of the offenses for which the court has entered a disposition is not at the time of commission of the offense:

(A) A most serious offense, as defined in RCW 9.94A.030;

(B) A sex offense under chapter 9A.44 RCW; or

(C) A drug offense, as defined in RCW 9.94A.030; and

(ii) The respondent has completed the terms and conditions of disposition, including affirmative conditions and financial obligations.

(d) Following a contested sealing hearing on the record after an objection is made pursuant to (a) of this subsection, the court shall enter a written order sealing the juvenile court record unless the court determines that sealing is not appropriate.

(2) The court shall enter a written order immediately sealing the official juvenile court record upon the acquittal after a fact finding or upon dismissal of charges.

(3) If a juvenile court record has not already been sealed pursuant to this section, in any case in which 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 who is 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 RCW 13.50.050(13), order the sealing of the official juvenile court record, the social file, and records of the court and of any other agency in the case.

(4)(a) The court shall grant any motion to seal records for class A offenses made pursuant to subsection (3) of this section if:

(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 grant any motion to seal records for class B, C, gross misdemeanor, and misdemeanor offenses and diversions made under subsection (3) of this section if:

(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 June 7, 2012, if restitution has been paid and the person is eighteen years of age or older at the time of the motion.

(5) The person making a motion pursuant to subsection (3) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose records are sought to be sealed.

(6)(a) If the court enters a written order sealing the juvenile court record pursuant to this section, it shall, subject to RCW 13.50.050(13), order sealed the official juvenile court record, 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.

(7) 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 13.50.050(13).

(8)(a) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying a sealing order; however, the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria under this section and the court record has not previously been resealed.

(b) Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order.

(c) 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.

(9) If the juvenile court record has been sealed pursuant to this section, the record of an employee is not admissible in an action for liability against the employer based on the former juvenile offender's conduct to show that the employer knew or should have known of the juvenile record of the employee. The record may be admissible, however, if a background check conducted or authorized by the employer contained the information in the sealed record.

NEW SECTION. Sec. 5. A new section is added to chapter 13.50 RCW to read as follows:

(1)(a) Subject to RCW 13.50.050(13), 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:

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

(ii) The person's criminal history consists entirely of one diversion agreement or counsel and release entered on or after June 12, 2008;

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

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

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

(b) 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.

(c) 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.

(2) 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.

(3)(a) A person may request that the court order the records in his or her case destroyed as follows:

(i) 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. The request shall be granted if the court finds that two years have elapsed since completion of the agreement or counsel and release.

(ii) A person twenty-three years of age or older whose criminal history consists of only referrals for diversion. The request shall be granted 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.

(b) If the court grants the motion to destroy records made pursuant to this subsection, it shall, subject to RCW 13.50.050(13), order the official juvenile court record, the social file, and any other records named in the order to be destroyed.

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

(4) Any juvenile justice or care agency may, subject to the limitations in RCW 13.50.050(13) and this section, 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 (1) of this section.

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

Sec. 6. RCW 13.40.127 and 2013 c 179 s 5 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;

(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.

The court may require the juvenile to undergo a mental health or substance abuse assessment, or both. If the assessment identifies a need for treatment, conditions of supervision may include treatment for the assessed need that has been demonstrated to improve behavioral health and reduce recidivism.

(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) 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 supervision for an additional one-year period for good cause.

(9)(a) At the conclusion of the period 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;

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(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 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))~~ section 4 of this act.

(10)(a)(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 June 7, 2012, 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)))~~ section 4 of this act.

(c) Records sealed under this provision shall have the same legal status as records sealed under ~~((RCW 13.50.050))~~ section 4 of this act.

Sec. 7. RCW 13.40.190 and 2010 c 134 s 1 are each amended to read as follows:

(1)(a) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. In addition, restitution may be ordered for loss or damage if 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, pursuant to a plea agreement, are not prosecuted.

(b) Restitution may include the costs of counseling reasonably related to the offense.

(c) The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter.

(d) The court may determine the amount, terms, and conditions of the restitution including a payment plan extending up to ten years if the court determines that the respondent does not have the means to make full restitution over a shorter period. For the purposes of this section, the respondent shall remain under the court's jurisdiction for a maximum term of ten years after the respondent's eighteenth birthday and, during this period, the restitution portion of

the dispositional order may be modified as to amount, terms, and conditions at any time. Prior to the expiration of the ten-year period, the juvenile court may extend the judgment for the payment of restitution for an additional ten years. If the court grants a respondent's petition pursuant to ~~((RCW 13.50.050(11)))~~ section 4 of this act, the court's jurisdiction under this subsection shall terminate.

(e) Nothing in this section shall prevent a respondent from petitioning the court pursuant to ~~((RCW 13.50.050(11)))~~ section 4 of this act if the respondent has paid the full restitution amount stated in the court's order and has met the statutory criteria.

(f) If the respondent participated in the crime with another person or other persons, all such participants shall be jointly and severally responsible for the payment of restitution.

(g) At any time, the court may determine that the respondent is not required to pay, or may relieve the respondent of the requirement to pay, full or partial restitution to any insurance provider authorized under Title 48 RCW if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution to the insurance provider and could not reasonably acquire the means to pay the insurance provider the restitution over a ten-year period.

(2) Regardless of the provisions of subsection (1) of this section, the 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 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 court within one year of entry of the disposition order for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

(3) If an order includes restitution as one of the monetary assessments, 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.

(4) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the offense charged. "Victim" may also include a known parent or guardian of a victim who is a minor child or is not a minor child but is incapacitated, incompetent, disabled, or deceased.

(5) A respondent under obligation to pay restitution may petition the court for modification of the restitution order.

Sec. 8. RCW 13.50.100 and 2013 c 23 s 7 are each amended to read as follows:

(1) This section governs records not covered by RCW 13.50.050 and sections 4 and 5 of this act.

(2) Records covered by this section shall be confidential and shall be released only pursuant to this section and RCW 13.50.010.

(3) Records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility of supervising the juvenile. Records covered under this section and maintained by the juvenile courts which relate to the official actions of the agency may be entered in the statewide judicial information system. However, truancy records associated with a juvenile who has no other case history, and records of a juvenile's parents who have no other case history, shall be removed from the judicial information system when the juvenile is no longer subject to the compulsory attendance laws in chapter 28A.225 RCW. A county

clerk is not liable for unauthorized release of this data by persons or agencies not in his or her employ or otherwise subject to his or her control, nor is the county clerk liable for inaccurate or incomplete information collected from litigants or other persons required to provide identifying data pursuant to this section.

(4) Subject to (a) of this subsection, the department of social and health services may release information retained in the course of conducting child protective services investigations to a family or juvenile court hearing a petition for custody under chapter 26.10 RCW.

(a) Information that may be released shall be limited to information regarding investigations in which: (i) The juvenile was an alleged victim of abandonment or abuse or neglect; or (ii) the petitioner for custody of the juvenile, or any individual aged sixteen or older residing in the petitioner's household, is the subject of a founded or currently pending child protective services investigation made by the department subsequent to October 1, 1998.

(b) Additional information may only be released with the written consent of the subject of the investigation and the juvenile alleged to be the victim of abandonment or abuse and neglect, or the parent, custodian, guardian, or personal representative of the juvenile, or by court order obtained with notice to all interested parties.

(5) Any disclosure of records or information by the department of social and health services pursuant to this section shall not be deemed a waiver of any confidentiality or privilege attached to the records or information by operation of any state or federal statute or regulation, and any recipient of such records or information shall maintain it in such a manner as to comply with such state and federal statutes and regulations and to protect against unauthorized disclosure.

(6) A contracting agency or service provider of the department of social and health services that provides counseling, psychological, psychiatric, or medical services may release to the office of the family and children's ombuds information or records relating to services provided to a juvenile who is dependent under chapter 13.34 RCW without the consent of the parent or guardian of the juvenile, or of the juvenile if the juvenile is under the age of thirteen years, unless such release is otherwise specifically prohibited by law.

(7) A juvenile, his or her parents, the juvenile's attorney, and the juvenile's parent's attorney, shall, upon request, be given access to all records and information collected or retained by a juvenile justice or care agency which pertain to the juvenile except:

(a) If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his or her parents the agency may withhold the information subject to other order of the court: PROVIDED, That if the court determines that limited release of the information is appropriate, the court may specify terms and conditions for the release of the information; or

(b) If the information or record has been obtained by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric, or medical services to the juvenile, when the services have been sought voluntarily by the juvenile, and the juvenile has a legal right to receive those services without the consent of any person or agency, then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile unless otherwise authorized by law; or

(c) That the department of social and health services may delete the name and identifying information regarding persons or organizations who have reported alleged child abuse or neglect.

(8) A juvenile or his or her parent denied access to any records following an agency determination under subsection (7) of this section may file a motion in juvenile court requesting access to the

records. The court shall grant the motion unless it finds access may not be permitted according to the standards found in subsection (7)(a) and (b) of this section.

(9) The person making a motion under subsection (8) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(10) Subject to the rules of discovery in civil cases, any party to a proceeding seeking a declaration of dependency or a termination of the parent-child relationship and any party's counsel and the guardian ad litem of any party, shall have access to the records of any natural or adoptive child of the parent, subject to the limitations in subsection (7) of this section. A party denied access to records may request judicial review of the denial. If the party prevails, he or she shall be awarded attorneys' fees, costs, and an amount not less than five dollars and not more than one hundred dollars for each day the records were wrongfully denied.

(11) No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020(1) may be disclosed to a child-placing agency, private adoption agency, or any other licensed provider."

Senator O'Ban spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators O'Ban and Darneille to Second Substitute House Bill No. 1651.

The motion by Senator O'Ban carried and the striking amendment was adopted by voice vote.

MOTION

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

On page 1, line 1 of the title, after "records;" strike the remainder of the title and insert "amending RCW 13.50.010, 13.50.050, 13.40.127, 13.40.190, and 13.50.100; adding new sections to chapter 13.50 RCW; and creating a new section."

MOTION

On motion of Senator O'Ban, the rules were suspended, Second Substitute House Bill No. 1651 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators O'Ban and Darneille spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1651 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1651 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Excused: Senator Nelson

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SECOND SUBSTITUTE HOUSE BILL NO. 1651 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2023, by House Committee on Business & Financial Services (originally sponsored by Representatives Habib, Ryu, Zeiger and Maxwell)

Allowing crowdfunding for certain small securities offerings.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. This act may be known and cited as the Washington jobs act of 2014.

NEW SECTION. Sec. 2. The legislature finds that start-up companies play a critical role in creating new jobs and revenues. Crowdfunding, or raising money through small contributions from a large number of investors, allows smaller enterprises to access the capital they need to get new businesses off the ground. The legislature further finds that the costs of state securities registration often outweigh the benefits to Washington start-ups seeking to make small securities offerings and that the use of crowdfunding for business financing in Washington is significantly restricted by state securities laws. Helping new businesses access equity crowdfunding within certain boundaries will democratize venture capital and facilitate investment by Washington residents in Washington start-ups while protecting consumers and investors. For these reasons, the legislature intends to provide Washington businesses and investors the opportunity to benefit from equity crowdfunding.

NEW SECTION. Sec. 3. A new section is added to chapter 21.20 RCW to read as follows:

(1) Any offer or sale of a security is exempt from RCW 21.20.040 through 21.20.300 and 21.20.327, except as expressly provided, if:

(a) The offering is first declared exempt by the director after:

(i) The issuer files the offering with the director; or

(ii) A portal working in collaboration with the director files the offering with the director on behalf of the issuer under section 4 of this act;

(b) The offering is conducted in accordance with the requirements of section 3(a)(11) of the securities act of 1933 and securities and exchange commission rule 147, 17 C.F.R. Sec. 230.147;

(c) The issuer is an entity organized and doing business in the state of Washington;

(d) Each investor provides evidence or certification of residency in the state of Washington at the time of purchase;

(e) The issuer files with the director an escrow agreement either directly or through a portal providing that all offering proceeds will be released to the issuer only when the aggregate capital raised from all investors equals or exceeds the minimum target offering, as determined by the director;

(f) The aggregate purchase price of all securities sold by an issuer pursuant to the exemption provided by this section does not exceed one million dollars during any twelve-month period;

(g) The aggregate amount sold to any investor by one or more issuers during the twelve-month period preceding the date of the sale does not exceed:

(i) The greater of two thousand dollars or five percent of the annual income or net worth of the investor, as applicable, if either the annual income or the net worth of the investor is less than one hundred thousand dollars; or

(ii) Ten percent of the annual income or net worth of the investor, as applicable, up to one hundred thousand dollars, if either the annual income or net worth of the investor is one hundred thousand dollars or more;

(h) The investor acknowledges by manual or electronic signature the following statement conspicuously presented at the time of sale on a page separate from other information relating to the offering: "I acknowledge that I am investing in a high-risk, speculative business venture, that I may lose all of my investment, and that I can afford the loss of my investment";

(i) The issuer reasonably believes that all purchasers are purchasing for investment and not for sale in connection with a distribution of the security; and

(j) The issuer and investor provide any other information reasonably requested by the director.

(2) Attempted compliance with the exemption provided by this section does not act as an exclusive election. The issuer may claim any other applicable exemption.

(3) For as long as securities issued under the exemption provided by this section are outstanding, the issuer shall provide a quarterly report to the issuer's shareholders and the director by making such report publicly accessible, free of charge, at the issuer's internet web site address within forty-five days of the end of each fiscal quarter. The report must contain the following information:

(a) Executive officer and director compensation, including specifically the cash compensation earned by the executive officers and directors since the previous report and on an annual basis, and any bonuses or other compensation, including stock options or other rights to receive equity securities of the issuer or any affiliate of the issuer, received by them; and

(b) A brief analysis by management of the issuer of the business operations and financial condition of the issuer.

(4) Securities issued under the exemption provided by this section may not be transferred by the purchaser during a one-year period beginning on the date of purchase, unless the securities are transferred:

(a) To the issuer of the securities;

(b) To an accredited investor;

(c) As part of a registered offering; or

(d) To a member of the family of the purchaser or the equivalent, or in connection with the death or divorce or other similar circumstances, in the discretion of the director.

(5) The director shall adopt disqualification provisions under which this exemption shall not be available to any person or its predecessors, affiliates, officers, directors, underwriters, or other related persons. The provisions shall be substantially similar to the disqualification provisions adopted by the securities and exchange commission pursuant to the requirements of section 401(b)(2) of the Jobs act of 2012 or, if none, as adopted in Rule 506 of Regulation D. Notwithstanding the foregoing, this exemption shall become available on the effective date of this section.

NEW SECTION. Sec. 4. A new section is added to chapter 21.20 RCW to read as follows:

(1) Only a local associate development organization, as defined in RCW 43.330.010, a port district, or an organization that qualifies as a portal pursuant to regulations promulgated by the director, may work in collaboration with the director to act as a portal under this chapter.

(2) A portal shall require, at a minimum, the following information from an applicant for exemption prior to offering services to the applicant or forwarding the applicant's materials to the director:

- (a) A description of the issuer, including type of entity, location, and business plan, if any;
- (b) The applicant's intended use of proceeds from an offering under this act;
- (c) Identities of officers, directors, managing members, and ten percent beneficial owners, as applicable;
- (d) A description of any outstanding securities; and
- (e) A description of any litigation or legal proceedings involving the applicant, its officers, directors, managing members, or ten percent beneficial owners, as applicable.

(3) Upon receipt of the information described in subsection (2) of this section, the portal may offer services to the applicant that the portal deems appropriate or necessary to meet the criteria for exemption under sections 3 and 5 of this act. Such services may include assistance with development of a business plan, referral to legal services, and other technical assistance in preparation for a public securities offering.

(4) The portal shall forward the materials necessary for the applicant to qualify for exemption to the director for filing when the portal is satisfied that the applicant has assembled the necessary information and materials to meet the criteria for exemption under sections 3 and 5 of this act.

(5) The portal shall work in collaboration with the director for the purposes of executing the offering upon filing with the director.

NEW SECTION. Sec. 5. A new section is added to chapter 21.20 RCW to read as follows:

The director must adopt rules to implement sections 2 and 3 of this act subject to RCW 21.20.450 including, but not limited to:

- (1) Adopting rules for filing with the director under sections 3 and 4 of this act by October 1, 2014;
- (2) Establishing filing and transaction fees sufficient to cover the costs of administering this section and sections 2 through 4 of this act by January 1, 2015; and
- (3) Adopting any other rules to implement sections 3 and 4 of this act by April 1, 2015.

The director shall take steps and adopt rules to implement this section by the dates specified in this section.

Sec. 6. RCW 42.56.270 and 2013 c 305 s 14 are each amended to read as follows:

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

- (1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;
- (2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;
- (3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;
- (4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;
- (5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or

examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

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

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

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

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

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

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

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

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

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

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

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

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

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

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

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such

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information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

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

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

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

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

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

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

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

(21) Financial, commercial, operations, and technical and research information and data submitted to or obtained by innovate Washington in applications for, or delivery of, grants and loans under chapter 43.333 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information; ~~(and)~~

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

(23) Financial information supplied to the department of financial institutions or to a portal under section 4 of this act, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under section 3 of this act or when filed by or on behalf of an investor for the purpose of purchasing such securities."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hobbs and Angel to Engrossed Substitute House Bill No. 2023.

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

MOTION

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

On page 1, line 2 of the title, after "offerings;" strike the remainder of the title and insert "amending RCW 42.56.270; adding new sections to chapter 21.20 RCW; and creating new sections."

MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed Substitute House Bill No. 2023 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2023 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2023 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, O'Ban, Padden, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Holmquist Newbry and Parlette
Excused: Senator Nelson

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2023 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2626, by House Committee on Higher Education (originally sponsored by Representatives Seaquist, Haler, Reykdal, Gregerson, Pollet and Moscoso)

Concerning statewide educational attainment goals.

The measure was read the second time.

MOTION

Senator Bailey moved that the following committee striking amendment by the Committee on Higher Education be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that increasing educational attainment is vital to the well-being of Washingtonians and critical to the health of the state's economy. Education opens doors to gainful employment, higher wages, increased job benefits, improved physical health, and increased civic engagement. Educated workers who are capable of competing for high-demand jobs in today's global economy sustain existing employers and attract new businesses. These individuals with competitive higher education credentials directly contribute to the state's economic growth and vitality.

(2) The legislature finds that workforce and labor market projections estimate that by 2020 the vast majority of jobs in Washington will require at least a high school diploma or equivalent and seventy percent of those jobs will also require some postsecondary education.

(3) The legislature finds that current levels of educational attainment are inadequate to address the educational needs of the

state. In 2013, eighty-nine percent of Washington adults ages twenty-five to forty-four had a high school diploma or equivalent, and less than fifty percent of Washington adults ages twenty-five to forty-four have a postsecondary credential.

(4) The legislature recognizes that one of the most important duties of the student achievement council is to propose educational attainment goals to the governor and legislature and develop a ten-year roadmap to achieve those goals, to be updated every two years.

NEW SECTION. **Sec. 2.** Acknowledging the recommendations in the higher education ten-year roadmap, the legislature is encouraged by the student achievement council's efforts to meet the following two goals in order to meet the societal and economic needs of the future:

(1) All adults in Washington ages twenty-five to forty-four will have a high school diploma or equivalent by 2023; and

(2) At least seventy percent of Washington adults ages twenty-five to forty-four will have a postsecondary credential by 2023.

NEW SECTION. **Sec. 3.** This act expires July 1, 2016."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Higher Education to Engrossed Substitute House Bill No. 2626.

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

MOTION

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

On page 1, line 2 of the title, after "goals;" strike the remainder of the title and insert "creating new sections; and providing an expiration date."

MOTION

On motion of Senator Bailey, the rules were suspended, Engrossed Substitute House Bill No. 2626 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Bailey and Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2626 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2626 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Danel, Darneille, Eide, Erickson, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2626 as amended by the Senate, having received the constitutional

majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1669, by House Committee on Higher Education (originally sponsored by Representatives Pollet, Haler, Cody, Tarleton, Johnson, Seaquist, Farrell, Magendanz, Riccelli and Ryu)

Concerning self-supporting, fee-based programs at four-year institutions of higher education.

The measure was read the second time.

MOTION

On motion of Senator Bailey, the rules were suspended, Substitute House Bill No. 1669 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Bailey and Chase spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1669.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1669 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Danel, Darneille, Eide, Erickson, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SUBSTITUTE HOUSE BILL NO. 1669, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2613, by House Committee on Higher Education (originally sponsored by Representatives Gregerson, Zeiger, Seaquist, Haler, Morrell, Pollet and Jinkins)

Creating efficiencies for institutions of higher education.

The measure was read the second time.

MOTION

Senator Bailey moved that the following committee striking amendment by the Committee on Higher Education be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.15.102 and 2013 c 23 s 53 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

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assumed in the omnibus appropriations act is subject to the financial aid requirements included in this section and shall remain subject to these requirements through the 2018-19 academic year.

(2) Beginning July 1, 2011, each four-year institution of higher education that raises tuition beyond levels assumed in the omnibus appropriations act shall, in a manner consistent with the goal of enhancing the quality of and access to their institutions, provide financial aid to offset full-time tuition fees for resident undergraduate students as follows:

(a) Subtract from the full-time tuition fees an amount that is equal to the maximum amount of a state need grant award that would be given to an eligible student with a family income at or below fifty percent of the state's median family income as determined by the student achievement council; and

(b) Offset the remainder as follows:

(i) Students with demonstrated need whose family incomes are at or below fifty percent of the state's median family income shall receive financial aid equal to one hundred percent of the remainder if an institution's full-time tuition fees for resident undergraduate students is five percent or greater of the state's median family income for a family of four as provided by the student achievement council;

(ii) Students with demonstrated need whose family incomes are greater than fifty percent and no more than seventy percent of the state's median family income shall receive financial aid equal to seventy-five percent of the remainder if an institution's full-time tuition fees for resident undergraduate students is ten percent or greater of the state's median family income for a family of four as provided by the student achievement council;

(iii) Students with demonstrated need whose family incomes exceed seventy percent and are less than one hundred percent of the state's median family income shall receive financial aid equal to fifty percent of the remainder if an institution's full-time tuition fees for resident undergraduate students is fifteen percent or greater of the state's median family income for a family of four as provided by the student achievement council; and

(iv) Students with demonstrated need whose family incomes are at or exceed one hundred percent and are no more than one hundred twenty-five percent of the state's median family income shall receive financial aid equal to twenty-five percent of the remainder if an institution's full-time tuition fees for resident undergraduate students is twenty percent or greater of the state's median family income for a family of four as provided by the student achievement council.

(3) The financial aid required in subsection (2) of this section shall:

(a) Be reduced by the amount of other financial aid awards, not including the state need grant;

(b) Be prorated based on credit load; and

(c) Only be provided to students up to demonstrated need.

(4) Financial aid sources and methods may be:

(a) Tuition revenue or locally held funds;

(b) Tuition waivers created by a four-year institution of higher education for the specific purpose of serving low and middle-income students; or

(c) Local financial aid programs.

(5) Use of tuition waivers as specified in subsection (4)(b) of this section shall not be included in determining total state tuition waiver authority as defined in RCW 28B.15.910.

(6) By ~~((August 15, 2012, and August 15th))~~ December 31st every year ~~((hereafter))~~, four-year institutions of higher education that increase tuition beyond levels assumed in the omnibus appropriations act after January 1, 2011, 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 resident 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 for resident undergraduate students;

(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 first-year undergraduate students at the Seattle campus, as defined in RCW 28B.15.012, as enrolled during the 2009-10 academic year. This requirement shall not apply to nonresident undergraduate and graduate and professional students.

Sec. 2. RCW 42.16.010 and 2011 1st sp.s. c 43 s 446 are each amended to read as follows:

(1) Except as provided otherwise in subsections (2) and (3) of this section, all state officers and employees shall be paid for services rendered from the first day of the month through the fifteenth day of the month and for services rendered from the sixteenth day of the month through the last calendar day of the month. Paydates for these two pay periods shall be established by the director of financial management through the administrative hearing process and the official paydates shall be established six months prior to the beginning of each subsequent calendar year. Under no circumstance shall the paydate be established more than ten days after the pay period in which the wages are earned except when the designated paydate falls on Sunday, in which case the paydate shall not be later than the following Monday. Payment shall be deemed to have been made by the established paydates if:

(a) The salary warrant is available at the geographic work location at which the warrant is normally available to the employee; or (b) the salary has been electronically transferred into the employee's account at the employee's designated financial institution; or (c) the salary warrants are mailed at least two days before the established paydate for those employees engaged in work in remote or varying locations from the geographic location at which the payroll is

prepared, provided that the employee has requested payment by mail.

The office of financial management shall develop the necessary policies and operating procedures to assure that all remuneration for services rendered including basic salary, shift differential, standby pay, overtime, penalty pay, salary due based on contractual agreements, and special pay provisions, as provided for by law, agency policy or rule, or contract, shall be available to the employee on the designated payday. Overtime, penalty pay, and special pay provisions may be paid by the next following payday if the postponement of payment is attributable to: The employee's not making a timely or accurate report of the facts which are the basis for the payment, or the employer's lack of reasonable opportunity to verify the claim.

Compensable benefits payable because of separation from state service shall be paid with the earnings for the final period worked unless the employee separating has not provided the agency with the proper notification of intent to terminate.

One-half of the employee's basic monthly salary shall be paid in each pay period. Employees paid on an hourly basis or employees who work less than a full pay period shall be paid for actual salary earned.

(2) Subsection (1) of this section shall not apply in instances where it would conflict with contractual rights or, with the approval of the office of financial management, to short-term, intermittent, noncareer state employees, to student employees of institutions of higher education, to national or state guard members participating in state active duty, and to liquor control agency managers who are paid a percentage of monthly liquor sales.

(3) When a national or state guard member is called to participate in state active duty, the payday shall be no more than seven days following completion of duty or the end of the pay period, whichever is first. When the seventh day falls on Sunday, the payday shall not be later than the following Monday. This subsection shall apply only to the pay a national or state guard member receives from the military department for state active duty.

(4) Notwithstanding subsections (1) and (2) of this section, a bargained contract at an institution of higher education may include a provision for paying part-time academic employees on a pay schedule that coincides with all the paydays used for full-time academic employees.

(5)(a) Notwithstanding subsections (1), (2), and (4) of this section, an institution of higher education as defined in RCW 28B.10.016 may pay its employees for services rendered biweekly, in pay periods consisting of two consecutive seven calendar-day weeks. The payday for each pay period shall be seven calendar days after the end of the pay period. Under no circumstance may the payday be established more than seven days after the pay period in which the wages are earned except that when the designated payday falls on a holiday, the payday shall not be later than the following Monday.

(b) Employees on a biweekly payroll cycle under this subsection (5) who are paid a salary may receive a prorated amount of their annualized salary each pay period. The prorated amount must be proportional to the number of pay periods worked in the calendar year. Employees on a biweekly payroll cycle under this subsection (5) who are paid hourly, or who work less than a full pay period may be paid the actual salary amount earned during the pay period.

(c) Each institution that adopts a biweekly pay schedule under this subsection (5) must establish, publish, and notify the director of the office of financial management of the official paydates six months before the beginning of each subsequent calendar year.

(6) Notwithstanding subsections (1), (2), and (4) of this section, academic employees at institutions of higher education as defined in RCW 28B.10.016 whose employment appointments are less than

twelve months may have their salaries prorated in such a way that coincides with the paydays used for full-time employees.

Sec. 3. RCW 44.28.816 and 2011 1st sp.s. c 10 s 31 are each amended to read as follows:

(1) During calendar year 2018, the joint committee shall complete a systemic performance audit of the tuition-setting authority in RCW 28B.15.067 granted to the governing boards of the state universities, regional universities, and The Evergreen State College. The audit must include a separate analysis of both the authority granted in RCW 28B.15.067(3) and the authority in RCW 28B.15.067(4). The purpose of the audit is to evaluate the impact of institutional tuition-setting authority on student access, affordability, and ~~((institutional quality))~~ completion.

(2) The audit must include an evaluation of the following outcomes for each four-year institution of higher education:

(a) Changes in undergraduate enrollment, retention, and graduation by race and ethnicity, gender, state and county of origin, age, and socioeconomic status;

(b) The impact on student transferability, particularly from Washington community and technical colleges;

(c) Changes in time and credits to degree;

(d) Changes in the number and availability of online programs and undergraduate enrollments in the programs;

(e) Changes in enrollments in the running start and other dual enrollment programs;

(f) Impacts on funding levels for state student financial aid programs;

(g) Any changes in the percent of students who apply for student financial aid using the free application for federal student aid (FAFSA);

(h) Any changes in the percent of students who apply for available tax credits;

(i) Information on the use of building fee revenue by fiscal or academic year; and

(j) Undergraduate tuition and fee rates compared to undergraduate tuition and fee rates at similar institutions in the global challenge states.

(3) The audit must include recommendations on whether to continue tuition-setting authority beyond the 2018-19 academic year.

(4) In conducting the audit, the auditor shall solicit input from key higher education stakeholders, including but not limited to students and their families, faculty, and staff. To the maximum extent possible, data for the University of Washington and Washington State University shall be disaggregated by branch campus.

(5) The auditor shall report findings and recommendations to the appropriate committees of the legislature by December 15, 2018.

(6) This section expires December 31, 2018.

Sec. 4. 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.

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(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, with the exception of projects at institutions of higher education as defined in RCW 28B.10.016, which may be valued up to ten 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) 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. 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. 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. 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) 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) 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. 5. RCW 28B.07.050 and 2003 c 84 s 1 are each amended to read as follows:

(1) The authority may, from time to time, issue its special obligation bonds in order to carry out the purposes of this chapter and to enable the authority to exercise any of the powers granted to it in this chapter. The bonds shall be issued pursuant to a bond resolution or trust indenture and shall be payable solely out of the special fund or funds created by the authority in the bond resolution or trust indenture. The special fund or funds shall be funded in whole or in part from moneys paid by one or more participants for whose benefit such bonds were issued and from the sources, if any, described in RCW 28B.07.040(9) or from the proceeds of bonds issued by the authority for the purpose of refunding any outstanding bonds of the authority.

(2) The bonds may be secured by:

- (a) A first lien against any unexpended proceeds of the bonds;
- (b) A first lien against moneys in the special fund or funds created by the authority for their payment;
- (c) A first or subordinate lien against the revenue and receipts of the participant or participants which revenue is derived in whole or in part from the project financed by the authority;
- (d) A first or subordinate security interest against any real or personal property, tangible or intangible, of the participant or participants, including, but not limited to, the project financed by the authority;
- (e) Any other real or personal property, tangible or intangible; or
- (f) Any combination of (a) through (e) of this subsection.

Any security interest created against the unexpended bond proceeds and against the special funds created by the authority shall be immediately valid and binding against the moneys and any securities in which the moneys may be invested without authority or trustee possession, and the security interest shall 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.

(3) The bonds may be issued as serial bonds or as term bonds or any such combination. The bonds shall 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, either coupon or registered, or both; carry such registration privileges; be made transferable, exchangeable, and interchangeable; be payable in lawful money of the United States of America at such place or places; be subject to such terms of redemption; and be sold at public or private sale, in such manner, at such time, and at such price as the authority shall determine. The bonds shall be executed by the manual or facsimile signatures of the chairperson and the authority's duly-elected secretary or its executive director, and by the trustee if the authority determines to use a trustee. At least one signature shall be manually subscribed. Coupon bonds shall have attached interest coupons bearing the facsimile signatures of the chairperson and the secretary or the executive director.

(4) Any bond resolution, trust indenture, or agreement with a participant relating to bonds issued by the authority or the financing or refinancing made available by the authority may contain provisions, which may be made a part of the contract with the holders or owners of the bonds to be issued, pertaining to the following, among other matters: (a) The security interests granted by the participant to secure repayment of any amounts financed and the performance by the participant of its other obligations in the financing; (b) the security interests granted to the holders or owners of the bonds to secure repayment of the bonds; (c) rentals, fees, and other amounts to be charged, and the sums to be raised in each year through such charges, and the use, investment, and disposition of the sums; (d) the segregation of reserves or sinking funds, and the regulation, investment, and disposition thereof; (e) limitations on the uses of the project; (f) limitations on the purposes to which, or the investments in which, the proceeds of the sale of any issue of bonds may be applied; (g) terms pertaining to the issuance of additional parity bonds; (h) terms pertaining to the incurrence of parity debt; (i) the refunding of outstanding bonds; (j) procedures, if any, by which the terms of any contract with bondholders may be amended or abrogated; (k) acts or failures to act which constitute a default by the participant or the authority in their respective obligations and the rights and remedies in the event of a default; (l) the securing of bonds by a pooling of leases whereby the authority may assign its rights, as lessor, and pledge rents under two or more leases with two or more participants, as lessees; (m) terms governing performance by the trustee of its obligation; or (n) such other additional covenants, agreements, and provisions as are deemed necessary, useful, or convenient by the authority for the security of the holders of the bonds.

(5) Bonds may be issued by the authority to refund other outstanding authority bonds, at or prior to the maturity thereof, and to pay any redemption premium with respect thereto. Bonds issued for such 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 under RCW 28B.07.080 with respect to 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.

(6) All bonds and any interest coupons appertaining to the bonds shall be negotiable instruments under Title 62A RCW.

(7) Neither the members of the authority, nor its employees or agents, nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance of the bonds.

(8) 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 bondholders.

(9) At no time shall the total outstanding bonded indebtedness of the authority exceed one billion five hundred million dollars."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Higher Education to Substitute House Bill No. 2613.

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

MOTION

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

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "and amending RCW 28B.15.102, 42.16.010, 44.28.816, 43.88.110, and 28B.07.050."

MOTION

On motion of Senator Bailey, the rules were suspended, Substitute House Bill No. 2613 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Bailey and Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2613 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2613 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dassel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SUBSTITUTE HOUSE BILL NO. 2613 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2398, by Representatives Walkinshaw, Haler, Seaquist, Zeiger, Muri, Smith, Ryu, Reykdal, S. Hunt, Gregerson and Pollet

Permitting community colleges that confer applied baccalaureate degrees to confer honorary bachelor of applied science degrees.

The measure was read the second time.

MOTION

On motion of Senator Bailey, the rules were suspended, House Bill No. 2398 was advanced to third reading, the second

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reading considered the third and the bill was placed on final passage.

Senator Bailey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2398.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2398 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

HOUSE BILL NO. 2398, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2575, by Representatives Bergquist, Dahlquist, Stonier and Santos

Requiring that certain teacher assignment and reassignment data be included in data submitted to the office of the superintendent of public instruction.

The measure was read the second time.

MOTION

On motion of Senator Litzow, the rules were suspended, House Bill No. 2575 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Litzow spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2575.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2575 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

HOUSE BILL NO. 2575, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

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SECOND SUBSTITUTE HOUSE BILL NO. 2616, by House Committee on Appropriations (originally sponsored by Representatives Freeman, Walsh, Kagi, Roberts, Smith, Orwall, Tarleton and Pollet)

Concerning parents with intellectual or developmental disabilities involved in dependency proceedings.

The measure was read the second time.

MOTION

Senator O'Ban moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to assure that for parents with developmental disabilities, the department of social and health services takes into consideration the parent's disability when offering services to correct parental deficiencies. To do so, the legislature finds that the department must contact the developmental disabilities administration.

Sec. 2. RCW 13.34.136 and 2013 c 316 s 2, 2013 c 254 s 2, and 2013 c 173 s 2 are each reenacted and amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the department's or supervising agency's proposed permanency plan must be provided to the department or supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption, including a tribal customary adoption as defined in RCW 13.38.040; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(8), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the supervising agency or the department will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the department or supervising agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The department's or supervising agency's plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(A) If the parent is incarcerated, the plan must address how the parent will participate in the case conference and permanency planning meetings and, where possible, must include treatment that reflects the resources available at the facility where the parent is confined. The plan must provide for visitation opportunities, unless visitation is not in the best interests of the child.

(B) If a parent has a developmental disability according to the definition provided in RCW 71A.10.020, and that individual is eligible for services provided by the developmental disabilities administration, the department shall make reasonable efforts to consult with the developmental disabilities administration to create an appropriate plan for services. For individuals who meet the definition of developmental disability provided in RCW 71A.10.020 and who are eligible for services through the developmental disabilities administration, the plan for services must be tailored to correct the parental deficiency taking into consideration the parent's disability and the department shall also determine an appropriate method to offer those services based on the parent's disability.

(ii)(A) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The supervising agency or department shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement.

(B) Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation.

(C) Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. When a parent or sibling has been identified as a suspect in an active criminal investigation for a violent crime that, if the allegations are true, would impact the safety of the child, the department shall make a concerted effort to consult with the assigned law enforcement officer in the criminal case before recommending any changes in parent/child or child/sibling contact. In the event that the law enforcement officer has information pertaining to the criminal case that may have serious implications for child safety or well-being, the law enforcement officer shall provide this information to the department during the consultation. The department may only use the information provided by law enforcement during the consultation to inform family visitation plans and may not share or otherwise distribute the information to any person or entity. Any information provided to the department by law enforcement during the consultation is considered investigative information and is exempt from public inspection pursuant to RCW 42.56.240. The results of the consultation shall be communicated to the court.

(D) The court and the department or supervising agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii)(A) The department, court, or caregiver in the out-of-home placement may not limit visitation or contact between a child and sibling as a sanction for a child's behavior or as an incentive to the child to change his or her behavior.

(B) Any exceptions, limitation, or denial of contacts or visitation must be approved by the supervisor of the department caseworker and documented. The child, parent, department, guardian ad litem, or court-appointed special advocate may challenge the denial of visits in court.

(iv) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(v) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department or supervising agency.

(vi) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vii) The supervising agency or department shall provide all reasonable services that are available within the department or supervising agency, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(8), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The department or supervising agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date. If the child has been in out-of-home care for fifteen of the most recent twenty-two months, and the court has not made a good cause exception, the court shall require the department or supervising agency to file a petition seeking termination of parental rights in accordance with RCW 13.34.145((3))~~(4)~~(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(6). Whenever the permanency plan for a child is adoption, the court shall encourage the prospective adoptive parents, birth parents, foster parents, kinship caregivers, and the department or other supervising agency to seriously consider the long-term benefits to the child adoptee and his or her siblings of providing for and facilitating continuing postadoption contact between the siblings. To the extent that it is feasible, and when it is in the best interests of the child adoptee and his or her siblings, contact between the siblings should be frequent and of a similar nature as that which existed prior to the adoption. If the child adoptee or his or her siblings are represented by an attorney or guardian ad litem in a proceeding

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under this chapter or in any other child custody proceeding, the court shall inquire of each attorney and guardian ad litem regarding the potential benefits of continuing contact between the siblings and the potential detriments of severing contact. This section does not require the department of social and health services or other supervising agency to agree to any specific provisions in an open adoption agreement and does not create a new obligation for the department to provide supervision or transportation for visits between siblings separated by adoption from foster care.

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 2616.

The motion by Senator O'Ban carried and the committee striking amendment was adopted by voice vote.

MOTION

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

On page 1, line 2 of the title, after "with" strike "intellectual or" and after "proceedings;" strike the remainder of the title and insert "reenacting and amending RCW 13.34.136; and creating a new section."

MOTION

On motion of Senator O'Ban, the rules were suspended, Second Substitute House Bill No. 2616 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator O'Ban spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2616 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2616 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SECOND SUBSTITUTE HOUSE BILL NO. 2616 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2029, by House Committee on Appropriations (originally sponsored by Representatives Morris and Hudgins)

Eliminating economic development-related agencies, boards, and commissions. Revised for 2nd Substitute: Eliminating the economic development-related agencies, boards, and commissions.

The measure was read the second time.

MOTION

Senator Braun moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"PART I

ELIMINATION OF THE WASHINGTON STATE ECONOMIC DEVELOPMENT COMMISSION

Sec. 101. RCW 28B.30.530 and 2012 c 229 s 808 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 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. 102. RCW 28B.155.010 and 2012 c 242 s 1 are each amended to read as follows:

(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)~~ and the department of commerce ~~(and innovate Washington)~~.

Sec. 103. RCW 28C.18.060 and 2012 c 229 s 579 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;

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(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 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 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 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 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. 104. RCW 28C.18.080 and 2009 c 421 s 6, 2009 c 151 s 7, and 2009 c 92 s 1 are each reenacted and amended to read as follows:

(1) The board shall develop a state comprehensive plan for workforce training and education for a ten-year time period. The board shall submit the ten-year state comprehensive plan to the governor and the appropriate legislative policy committees. Every four years by December 1st, beginning December 1, 2012, the board shall submit an update of the ten-year state comprehensive plan for workforce training and education to the governor and the appropriate legislative policy committees. Following public hearings, the legislature shall, by concurrent resolution, approve or recommend changes to the initial plan and the updates. The plan shall then become the state's workforce training policy unless legislation is enacted to alter the policies set forth in the plan.

(2) The comprehensive plan shall include workforce training role and mission statements for the workforce development programs of operating agencies represented on the board and sufficient specificity regarding expected actions by the operating agencies to allow them to carry out actions consistent with the comprehensive plan.

(3) Operating agencies represented on the board shall have operating plans for their workforce development efforts that are consistent with the comprehensive plan and that provide detail on implementation steps they will take to carry out their responsibilities under the plan. Each operating agency represented on the board shall provide an annual progress report to the board.

(4) The comprehensive plan shall include recommendations to the legislature and the governor on the modification, consolidation, initiation, or elimination of workforce training and education programs in the state.

(5) The comprehensive plan shall identify the strategic industry clusters targeted by the workforce development system. In identifying the strategic clusters, the board shall consult with the ~~((economic development commission))~~ department of commerce to identify clusters that meet the criteria identified by the working group convened by the ~~((economic development commission))~~

department of commerce and the workforce training and education coordinating board under RCW 43.330.280.

(6) The board shall report to the appropriate legislative policy committees by December 1st of each year on its progress in implementing the comprehensive plan and on the progress of the operating agencies in meeting their obligations under the plan.

Sec. 105. RCW 39.102.040 and 2007 c 229 s 2 are each amended to read as follows:

(1) Prior to applying to the board to use local infrastructure financing, a sponsoring local government shall:

(a) Designate a revenue development area within the limitations in RCW 39.102.060;

(b) Certify that the conditions in RCW 39.102.070 are met;

(c) Complete the process in RCW 39.102.080;

(d) Provide public notice as required in RCW 39.102.100; and

(e) Pass an ordinance adopting the revenue development area as required in RCW 39.102.090.

(2) Any local government that has created an increment area under chapter 39.89 RCW and has not issued bonds to finance any public improvement may apply to the board and have its increment area considered for approval as a revenue development area under this chapter without adopting a new revenue development area under RCW 39.102.090 and 39.102.100 if it amends its ordinance to comply with RCW 39.102.090(1) and otherwise meets the conditions and limitations under this chapter.

(3) As a condition to imposing a sales and use tax under RCW 82.14.475, a sponsoring local government, including any cosponsoring local government seeking authority to impose a sales and use tax under RCW 82.14.475, must apply to the board and be approved for a project award amount. The application shall be in a form and manner prescribed by the board and include but not be limited to information establishing that the applicant is an eligible candidate to impose the local sales and use tax under RCW 82.14.475, the anticipated effective date for imposing the tax, the estimated number of years that the tax will be imposed, and the estimated amount of tax revenue to be received in each fiscal year that the tax will be imposed. The board shall make available forms to be used for this purpose. As part of the application, each applicant must provide to the board a copy of the ordinance or ordinances creating the revenue development area as required in RCW 39.102.090. A notice of approval to use local infrastructure financing shall contain a project award that represents the maximum amount of state contribution that the applicant, including any cosponsoring local governments, can earn each year that local infrastructure financing is used. The total of all project awards shall not exceed the annual state contribution limit. The determination of a project award shall be made based on information contained in the application and the remaining amount of annual state contribution limit to be awarded. Determination of a project award by the board is final.

(4)(a) Sponsoring local governments, and any cosponsoring local governments, applying in calendar year 2007 for a competitive project award, must submit completed applications to the board no later than July 1, 2007. By September 15, 2007, in consultation with the department of revenue and the department of ~~((community, trade, and economic development))~~ commerce, the board shall approve competitive project awards from competitive applications submitted by the 2007 deadline. No more than two million five hundred thousand dollars in competitive project awards shall be approved in 2007. For projects not approved by the board in 2007, sponsoring and cosponsoring local governments may apply again to the board in 2008 for approval of a project.

(b) Sponsoring local governments, and any cosponsoring local governments, applying in calendar year 2008 for a competitive project award, must submit completed applications to the board no later than July 1, 2008. By September 18, 2008, in consultation

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with the department of revenue and the department of (~~community, trade, and economic development~~) **commerce**, the board shall approve competitive project awards from competitive applications submitted by the 2008 deadline.

(c) Except as provided in RCW 39.102.050(2), a total of no more than five million dollars in competitive project awards shall be approved for local infrastructure financing.

(d) The project selection criteria and weighting developed prior to July 22, 2007, for the application evaluation and approval process shall apply to applications received prior to November 1, 2007. In evaluating applications for a competitive project award after November 1, 2007, the board shall (~~in consultation with the Washington state economic development commission~~) develop the relative weight to be assigned to the following criteria:

(i) The project's potential to enhance the sponsoring local government's regional and/or international competitiveness;

(ii) The project's ability to encourage mixed use and transit-oriented development and the redevelopment of a geographic area;

(iii) Achieving an overall distribution of projects statewide that reflect geographic diversity;

(iv) The estimated wages and benefits for the project is greater than the average labor market area;

(v) The estimated state and local net employment change over the life of the project;

(vi) The current economic health and vitality of the proposed revenue development area and the contiguous community and the estimated impact of the proposed project on the proposed revenue development area and contiguous community;

(vii) The estimated state and local net property tax change over the life of the project;

(viii) The estimated state and local sales and use tax increase over the life of the project;

(ix) An analysis that shows that, over the life of the project, neither the local excise tax allocation revenues nor the local property tax allocation revenues will constitute more than eighty percent of the total local funds as described in RCW 39.102.020(~~(29)(e)~~) (29)(b); and

(x) If a project is located within an urban growth area, evidence that the project utilizes existing urban infrastructure and that the transportation needs of the project will be adequately met through the use of local infrastructure financing or other sources.

(e)(i) Except as provided in this subsection (4)(e), the board may not approve the use of local infrastructure financing within more than one revenue development area per county.

(ii) In a county in which the board has approved the use of local infrastructure financing, the use of such financing in additional revenue development areas may be approved, subject to the following conditions:

(A) The sponsoring local government is located in more than one county; and

(B) The sponsoring local government designates a revenue development area that comprises portions of a county within which the use of local infrastructure financing has not yet been approved.

(iii) In a county where the local infrastructure financing tool is authorized under RCW 39.102.050, the board may approve additional use of the local infrastructure financing tool.

(5) Once the board has approved the sponsoring local government, and any cosponsoring local governments, to use local infrastructure financing, notification must be sent by the board to the sponsoring local government, and any cosponsoring local governments, authorizing the sponsoring local government, and any cosponsoring local governments, to impose the local sales and use tax authorized under RCW 82.14.475, subject to the conditions in RCW 82.14.475.

Sec. 106. RCW 43.84.092 and 2013 2nd sp.s. c 23 s 24 and 2013 2nd sp.s. c 11 s 15 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the

grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, ~~((the Washington state economic development commission account,))~~ the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings

derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 107. RCW 43.84.092 and 2013 2nd sp.s. c 23 s 25 and 2013 2nd sp.s. c 11 s 16 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the Columbia river crossing project account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the deferred

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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 mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement

officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, ~~((the Washington state economic development commission account,))~~ the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 108. RCW 43.160.060 and 2012 c 196 s 10 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 must be made in the form and manner as the board may prescribe. In making grants or loans the board must conform to the following requirements:

(a) The board may not provide financial assistance:

(i) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(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.

(iii) For a project the primary purpose of which is to facilitate or promote gambling.

(iv) For a project located outside the jurisdiction of the applicant political subdivision or federally recognized Indian tribe.

(b) The board may only provide financial assistance:

(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:

(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

(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;

(ii) For a project that cannot meet the requirement of (b)(i) of this subsection but is a project that:

(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));~~

(B) Is part of a local economic development plan consistent with applicable state planning requirements;

(C) Can demonstrate project feasibility using standard economic principles; and

(D) Is located in a rural community as defined by the board, or a rural county;

(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.

(c) The board must develop guidelines for local participation and allowable match and activities.

(d) An application must demonstrate local match and local participation, in accordance with guidelines developed by the board.

(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.

(f) The board may allow de minimis general system improvements to be funded if they are critically linked to the viability of the project.

(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.

(h) The board must prioritize each proposed project according to:

(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;

(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;

(iii) Whether the proposed project offers a health insurance plan for employees that includes an option for dependents of employees;

(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;

(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.

(i) A responsible official of the political subdivision or the federally recognized Indian tribe 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.

Sec. 109. RCW 43.160.900 and 2008 c 327 s 9 are each amended to read as follows:

(1) The community economic revitalization board shall conduct biennial outcome-based evaluations of the financial assistance provided under this chapter. The evaluations shall include information on the number of applications for community economic revitalization board assistance; the number and types of projects approved; the grant or loan amount awarded each project; the projected number of jobs created or retained by each project; the actual number and cost of jobs created or retained by each project; the wages and health benefits associated with the jobs; the amount of state funds and total capital invested in projects; the number and types of businesses assisted by funded projects; the location of funded projects; the transportation infrastructure available for completed projects; the local match and local participation obtained; the number of delinquent loans; and the number of project terminations. The evaluations may also include additional performance measures and recommendations for programmatic changes.

(2)((a) By September 1st of each even-numbered year, the board shall forward its draft evaluation to the Washington state economic development commission for review and comment, as required in section 10 of this act. The board shall provide any additional information as may be requested by the commission for the purpose of its review.

(b) Any written comments or recommendations provided by the commission as a result of its review shall be included in the board's completed evaluation.) The evaluation must be presented to the governor and appropriate committees of the legislature by December 31st of each even-numbered year. The initial evaluation must be submitted by December 31, 2010.

Sec. 110. RCW 43.330.050 and 2005 c 136 s 12 are each amended to read as follows:

The department shall be responsible for promoting community and economic development within the state by assisting the state's communities to increase the quality of life of their citizens and their economic vitality, and by assisting the state's businesses to maintain and increase their economic competitiveness, while maintaining a healthy environment. Community and economic development efforts shall include: Efforts to increase economic opportunity; local planning to manage growth; the promotion and provision of affordable housing and housing-related services; providing public infrastructure; business and trade development; assisting firms and industrial sectors to increase their competitiveness; fostering the development of minority and women-owned businesses; facilitating technology development, transfer, and diffusion; community services and advocacy for low-income persons; and public safety efforts. The department shall have the following general functions and responsibilities:

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(1) Provide advisory assistance to the governor, other state agencies, and the legislature on community and economic development matters and issues;

(2) Assist the governor in coordinating the activities of state agencies that have an impact on local government and communities;

(3) Cooperate with ~~((the Washington state economic development commission,))~~ the legislature~~(s,))~~ and the governor in the development and implementation of strategic plans for the state's community and economic development efforts;

(4) Solicit private and federal grants for economic and community development programs and administer such programs in conjunction with other programs assigned to the department by the governor or the legislature;

(5) Cooperate with and provide technical and financial assistance to local governments, businesses, and community-based organizations serving the communities of the state for the purpose of aiding and encouraging orderly, productive, and coordinated development of the state, and, unless stipulated otherwise, give additional consideration to local communities and individuals with the greatest relative need and the fewest resources;

(6) Participate with other states or subdivisions thereof in interstate programs and assist cities, counties, municipal corporations, governmental conferences or councils, and regional planning commissions to participate with other states and provinces or their subdivisions;

(7) Hold public hearings and meetings to carry out the purposes of this chapter;

(8) Conduct research and analysis in furtherance of the state's economic and community development efforts including maintenance of current information on market, demographic, and economic trends as they affect different industrial sectors, geographic regions, and communities with special economic and social problems in the state; and

(9) Develop a schedule of fees for services where appropriate.

Sec. 111. RCW 43.330.080 and 2012 c 195 s 1 are each amended to read as follows:

(1)(a) The department must 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 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;

(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 the contracts required in (a) of this subsection must include two broad areas of work:

(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) 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, 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) 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) 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) Working with businesses on site location and selection assistance;

(E) Providing business retention and expansion services throughout the county. 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) Participating in economic development system-wide discussions regarding gaps in business start-up assistance in Washington;

(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

(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. 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) 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) Participating with the state board for community and technical colleges as created in RCW 28B.50.050, and any community and technical colleges in the coordination of the job skills training program and the customized training program within its region;

(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) In conjunction with other governmental jurisdictions and institutions, ~~((participate [participating]))~~ participating 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. 112. RCW 43.330.082 and 2012 c 195 s 2 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 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 organization ~~((*))~~ 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. 113. RCW 43.330.090 and 2012 c 198 s 3 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 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 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;

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(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. 114. RCW 43.330.250 and 2013 2nd sp.s. c 24 s 1 are each amended to read as follows:

(1) The economic development strategic reserve account is created in the state treasury to be used only for the purposes of this section.

(2) Only the governor, with the recommendation of the director of the department of commerce ~~((and the economic development commission,))~~, may authorize expenditures from the account.

(3) ~~((Expenditures from the account shall be made in an amount sufficient to fund a minimum of one staff position for the economic development commission and to cover any other operational costs of the commission.~~

(4)) During the 2009-2011 and 2011-2013 fiscal biennia, moneys in the account may also be transferred into the state general fund.

~~((5))~~ (4) Expenditures from the account may be made to prevent closure of a business or facility, to prevent relocation of a business or facility in the state to a location outside the state, or to recruit a business or facility to the state. Expenditures may be authorized for:

(a) Workforce development;

(b) Public infrastructure needed to support or sustain the operations of the business or facility;

(c) Other lawfully provided assistance, including, but not limited to, technical assistance, environmental analysis, relocation assistance, and planning assistance. Funding may be provided for such assistance only when it is in the public interest and may only be

provided under a contractual arrangement ensuring that the state will receive appropriate consideration, such as an assurance of job creation or retention; and

(d) The joint center for aerospace technology innovation.

~~((6))~~ (5) The funds shall not be expended from the account unless:

(a) The circumstances are such that time does not permit the director of the department of commerce or the business or facility to secure funding from other state sources;

(b) The business or facility produces or will produce significant long-term economic benefits to the state, a region of the state, or a particular community in the state;

(c) The business or facility does not require continuing state support;

(d) The expenditure will result in new jobs, job retention, or higher incomes for citizens of the state;

(e) The expenditure will not supplant private investment; and

(f) The expenditure is accompanied by private investment.

~~((7))~~ (6) No more than three million dollars per year may be expended from the account for the purpose of assisting an individual business or facility pursuant to the authority specified in this section.

~~((8))~~ (7) If the account balance in the strategic reserve account exceeds fifteen million dollars at any time, the amount in excess of fifteen million dollars shall be transferred to the education construction account.

Sec. 115. RCW 43.330.270 and 2012 c 225 s 1 are each amended to read as follows:

(1) The department 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 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 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 evidence of sales in international 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 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 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 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;
- (c) Job skills;
- (d) Local improvement districts; and
- (e) Community economic revitalization board projects under chapter 43.160 RCW.

(7) An innovation partnership zone 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.

(10) The department must convene annual information sharing events for innovation partnership zone administrators and other interested parties.

(11) An innovation partnership zone 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.

(12) The department must compile a biennial report on the innovation partnership zone program by December 1st of every even-numbered year. The report 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 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 must submit the report ~~((including the commission's recommendations.))~~ to the governor and legislature beginning December 1, 2010.

Sec. 116. RCW 43.330.280 and 2012 c 229 s 708 are each amended to read as follows:

(1) The ~~((Washington state economic development commission))~~ department 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 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 publicly funded research institutions in the state shall be responsible for implementing the plan. 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,

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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))~~ department 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.

Sec. 117. RCW 43.330.310 and 2012 c 229 s 590 and 2012 c 198 s 12 are each reenacted and 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, 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, 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.

(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.

Sec. 118. RCW 43.330.375 and 2012 c 229 s 591 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

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(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 student achievement council.

Sec. 119. RCW 50.38.050 and 2009 c 151 s 2 are each amended to read as follows:

The department shall have the following duties:

(1) Oversight and management of a statewide comprehensive labor market and occupational supply and demand information system, including development of a five-year employment forecast for state and labor market areas;

(2) Produce local labor market information packages for the state's counties, including special studies and job impact analyses in support of state and local employment, training, education, and job creation programs, especially activities that prevent job loss, reduce unemployment, and create jobs;

(3) Coordinate with the office of financial management and the office of the forecast council to improve employment estimates by enhancing data on corporate officers, improving business establishment listings, expanding sample for employment estimates, and developing business entry/analysis relevant to the generation of occupational and economic forecasts;

(4) In cooperation with the office of financial management, produce long-term industry and occupational employment forecasts. These forecasts shall be consistent with the official economic and revenue forecast council biennial economic and revenue forecasts; and

(5) Analyze labor market and economic data, including the use of input-output models, for the purpose of identifying industry clusters and strategic industry clusters that meet the criteria identified by the working group convened by the ~~((economic development commission))~~ department of commerce and the workforce training and education coordinating board under chapter 43.330 RCW.

Sec. 120. RCW 82.14.505 and 2010 c 164 s 8 are each amended to read as follows:

(1) Demonstration projects are designated to determine the feasibility of local revitalization financing. For the purpose of this section, "annual state contribution limit" means four million two hundred thousand dollars statewide per fiscal year.

(a) Notwithstanding RCW 39.104.100, the department must approve each demonstration project for 2009 as follows:

(i) The Whitman county Pullman/Moscow corridor improvement project award may not exceed two hundred thousand dollars;

(ii) The University Place improvement project award may not exceed five hundred thousand dollars;

(iii) The Tacoma international financial services area/Tacoma dome project award may not exceed five hundred thousand dollars;

(iv) The Bremerton downtown improvement project award may not exceed three hundred thirty thousand dollars;

(v) The Auburn downtown redevelopment project award may not exceed two hundred fifty thousand dollars;

(vi) The Vancouver Columbia waterfront/downtown project award may not exceed two hundred twenty thousand dollars; and

(vii) The Spokane University District project award may not exceed two hundred fifty thousand dollars.

(b) Notwithstanding RCW 39.104.100, the department must approve each demonstration project for 2010 meeting the requirements in subsection (2)(c) of this section as follows:

(i) The Richland revitalization area for industry, science and education project award may not exceed three hundred thirty thousand dollars;

(ii) The Lacey gateway town center project award may not exceed five hundred thousand dollars;

(iii) The Mill Creek east gateway planned urban village revitalization area project award may not exceed three hundred thirty thousand dollars;

(iv) The Puyallup river road revitalization area project award may not exceed two hundred fifty thousand dollars;

(v) The Renton south Lake Washington project award may not exceed five hundred thousand dollars; and

(vi) The New Castle downtown project ~~((award))~~ award may not exceed forty thousand dollars.

(2)(a) Local government sponsors of demonstration projects under subsection (1)(a) of this section must submit to the department no later than September 1, 2009, documentation that substantiates that the project has met the conditions, limitations, and requirements provided in chapter 270, Laws of 2009.

(b) Sponsoring local government of demonstration projects under subsection (1)(b) of this section must update and resubmit to the department no later than September 1, 2010, the application already on file with the department to substantiate that the project has met the conditions, limitations, and requirements provided in chapter 270, Laws of 2009 and chapter 164, Laws of 2010 and the project is substantially the same as the project in the original application submitted to the department in 2009.

(c) The department must not approve any resubmitted application unless an economic analysis by a qualified researcher at the department of economics at the University of Washington confirms that there is an eighty-five percent probability that the application's assumptions and estimates of jobs created and increased tax receipts will be achieved by the project and determines that net state tax revenue will increase as a result of the project by an amount that equals or exceeds the award authorized in subsection (1)(b) of this section. ~~((Prior to submitting the economic analysis to the department, the qualified researcher must consult with the economic development commission established in chapter 43.162 RCW regarding his or her preliminary findings. The final economic analysis must include comments and recommendations of the economic development commission.))~~

(3) Within ninety days of such submittal, the economic analysis in subsection (2)(c) of this section must be completed and the department must either approve demonstration projects that have met these conditions, limitations, and requirements or deny resubmitted applications that have not met these conditions, limitations, and requirements.

(4) Local government sponsors of demonstration projects may elect to decline the project awards as designated in this section, and may elect instead to submit applications according to the process described in RCW 39.104.100.

(5) If a demonstration project listed in subsection (1)(b) of this section does not update and resubmit its application to the department by the deadline specified in subsection (2)(b) of this section or if the demonstration project withdraws its application, the associated dollar amounts may not be approved for another project

and may not be considered part of the annual state contribution limit under RCW 39.104.020(1).

Sec. 121. RCW 82.33A.010 and 2007 c 232 s 8 are each amended to read as follows:

(1) The economic climate council is hereby created.

(2) The council shall ~~((in consultation with the Washington economic development commission,))~~ select a series of benchmarks that characterize the competitive environment of the state. The benchmarks should be indicators of the cost of doing business; the education and skills of the workforce; a sound infrastructure; and the quality of life. In selecting the appropriate benchmarks, the council shall use the following criteria:

(a) The availability of comparative information for other states and countries;

(b) The timeliness with which benchmark information can be obtained; and

(c) The accuracy and validity of the benchmarks in measuring the economic climate indicators named in this section.

(3) Each year the council shall prepare an official state economic climate report on the present status of benchmarks, changes in the benchmarks since the previous report, and the reasons for the changes. The reports shall include current benchmark comparisons with other states and countries, and an analysis of factors related to the benchmarks that may affect the ability of the state to compete economically at the national and international level.

(4) All agencies of state government shall provide to the council immediate access to all information relating to economic climate reports.

Sec. 122. RCW 43.131.418 and 2013 2nd sp.s. c 24 s 3 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2021:

(1) RCW 28B.155.010 and 2014 c ... s 102 (section 102 of this act) & 2012 c 242 s 1; and

(2) RCW 28B.155.020 and 2012 c 242 s 2.

NEW SECTION. Sec. 123. The following acts or parts of acts are each repealed:

(1) RCW 43.162.005 (Findings--Intent) and 2011 c 311 s 1, 2007 c 232 s 1, & 2003 c 235 s 1;

(2) RCW 43.162.010 (Washington state economic development commission--Membership--Policies and procedures) and 2011 c 311 s 2, 2007 c 232 s 2, & 2003 c 235 s 2;

(3) RCW 43.162.012 ("Commission" defined) and 2011 c 311 s 3;

(4) RCW 43.162.015 (Executive director) and 2011 c 311 s 4 & 2007 c 232 s 3;

(5) RCW 43.162.020 (Duties--Biennial comprehensive statewide economic development strategy--Report--Biennial budget request--Memorandum of understanding--Performance evaluation--Gifts, grants, donations) and 2012 c 195 s 3, 2011 c 311 s 5, 2009 c 151 s 9, 2007 c 232 s 4, & 2003 c 235 s 3;

(6) RCW 43.162.025 (Additional authority) and 2011 c 311 s 6 & 2007 c 232 s 5;

(7) RCW 43.162.030 (Authority of governor and department of commerce not affected) and 2011 c 311 s 7, 2007 c 232 s 7, & 2003 c 235 s 4;

(8) RCW 43.162.040 (Washington state economic development commission account) and 2011 c 311 s 8; and

(9) RCW 82.33A.020 (Consulting with Washington economic development commission) and 2007 c 232 s 9 & 1996 c 152 s 4.

PART II

ELIMINATION OF THE WASHINGTON GLOBAL HEALTH TECHNOLOGIES

AND PRODUCT DEVELOPMENT COMPETITIVENESS PROGRAM

NEW SECTION. Sec. 201. RCW 43.374.010 (Washington global health technologies and product development competitiveness program) and 2010 1st sp.s. c 13 s 2 are each repealed.

PART III

ELIMINATION OF THE WASHINGTON TOURISM COMMISSION

NEW SECTION. Sec. 301. The following acts or parts of acts are each repealed:

(1) RCW 43.336.010 (Definitions) and 2009 c 565 s 42 & 2007 c 228 s 101;

(2) RCW 43.336.020 (Commission created--Composition--Terms--Executive director--Rule-making authority) and 2011 1st sp.s. c 50 s 957, 2009 c 549 s 5178, & 2007 c 228 s 102;

(3) RCW 43.336.030 (Tourism industry expansion--Coordinated program--Strategic plan--Tourism marketing plan) and 2007 c 228 s 103;

(4) RCW 43.336.040 (Tourism competitive grant program) and 2007 c 228 s 104;

(5) RCW 43.336.050 (Tourism enterprise account) and 2011 c 5 s 914 & 2007 c 228 s 105;

(6) RCW 43.336.060 (Tourism development program--Report to the legislature) and 2009 c 518 s 13, 2007 c 228 s 107, & 1998 c 299 s 5; and

(7) RCW 43.336.900 (Part headings not law--2007 c 228) and 2007 c 228 s 204.

PART IV

ELIMINATION OF THE MICROENTERPRISE DEVELOPMENT PROGRAM

Sec. 401. RCW 43.330.010 and 2011 c 286 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) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce.

(4) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.

(5) ("Microenterprise development organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or other locally operated nonprofit entity that provides services to low-income entrepreneurs.

(6)) "Small business" has the same meaning as provided in RCW ((39.29.006)) 39.26.010.

((7) "Statewide microenterprise association" means a nonprofit entity with microenterprise development organizations as members that serves as an intermediary between the department of commerce and local microenterprise development organizations.))

NEW SECTION. Sec. 402. RCW 43.330.290 (Microenterprise development program) and 2009 c 565 s 15 & 2007 c 322 s 3 are each repealed.

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PART V

MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 501. Section 106 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met.

NEW SECTION. Sec. 502. Section 107 of this act takes effect on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 2029.

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

MOTION

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

On page 1, beginning on line 2 of the title, after "commissions;" strike the remainder of the title and insert "amending RCW 28B.30.530, 28B.155.010, 28C.18.060, 39.102.040, 43.160.060, 43.160.900, 43.330.050, 43.330.080, 43.330.082, 43.330.090, 43.330.250, 43.330.270, 43.330.280, 43.330.375, 50.38.050, 82.14.505, 82.33A.010, 43.131.418, and 43.330.010; reenacting and amending RCW 28C.18.080, 43.84.092, 43.84.092, and 43.330.310; repealing RCW 43.162.005, 43.162.010, 43.162.012, 43.162.015, 43.162.020, 43.162.025, 43.162.030, 43.162.040, 82.33A.020, 43.374.010, 43.336.010, 43.336.020, 43.336.030, 43.336.040, 43.336.050, 43.336.060, 43.336.900, and 43.330.290; providing a contingent effective date; and providing a contingent expiration date."

MOTION

On motion of Senator Braun, the rules were suspended, Engrossed Second Substitute House Bill No. 2029 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Braun spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2029 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2029 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dandel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2029 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Billig, Senators Hasegawa and Kline were excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2171, by House Committee on Judiciary (originally sponsored by Representatives Orwall, Johnson, Tarleton, Ross, Nealey, Hayes, Sullivan, Farrell, Kirby, Hansen, Chandler, Green, Shea, Moscoso, Parker, Smith, Magendanz, Klippert, Rodne, Pollet, Seaquist, Appleton, Carlyle, Stanford, Buys, Morrell, Goodman, Lias, Haigh, Short, Fagan, Bergquist, Fey, Riccelli and Ryu)

Strengthening economic protections for veterans and military personnel.

The measure was read the second time.

MOTION

On motion of Senator Padden, the rules were suspended, Substitute House Bill No. 2171 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Padden spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2171.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2171 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dandel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Excused: Senators Hasegawa and Kline

SUBSTITUTE HOUSE BILL NO. 2171, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1287, by House Committee on Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Appleton, Dahlquist, Hurst, McCoy, Ryu, Santos and Pollet)

Subjecting federally recognized Indian tribes to the same conditions as state and local governments for property owned exclusively by the tribe.

The measure was read the second time.

MOTION

Senator Sheldon moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. This section is the tax preference performance statement for the tax preference contained in section 5 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to create jobs and improve the economic health of tribal communities as indicated in RCW 82.32.808(2) (c) and (f).

(2) It is the legislature's specific public policy objective to create jobs and improve the economic health of tribal communities. It is the legislature's intent to exempt property used by federally recognized Indian tribes for economic development purposes, in order to achieve these policy objectives.

(3) The joint legislative audit and review committee must perform an economic impact report to the legislature as required in section 10 of this act to provide the information necessary to measure the effectiveness of this act.

Sec. 2. RCW 82.29A.010 and 2010 c 281 s 2 are each amended to read as follows:

(1)(a) The legislature hereby recognizes that properties of the state of Washington, counties, school districts, and other municipal corporations are exempted by Article 7, section 1 of the state Constitution from property tax obligations, but that private lessees of such public properties receive substantial benefits from governmental services provided by units of government.

(b) The legislature further recognizes that a uniform method of taxation should apply to such leasehold interests in publicly owned property.

(c) The legislature finds that lessees of publicly owned property or community centers are entitled to those same governmental services and does hereby provide for a leasehold excise tax to fairly compensate governmental units for services rendered to such lessees of publicly owned property or community centers. For the purposes of this subsection, "community center" has the same meaning as provided in RCW 84.36.010.

(d) The legislature also finds that eliminating the property tax on property owned exclusively by federally recognized Indian tribes within the state requires that the leasehold excise tax also be applied to leasehold interests on tribally owned property.

(2) The legislature further finds that experience gained by lessors, lessees, and the department of revenue since enactment of the leasehold excise tax under this chapter has shed light on areas in the leasehold excise statutes that need explanation and clarification. The purpose of chapter 220, Laws of 1999 is to make those changes.

Sec. 3. RCW 82.29A.020 and 2012 2nd sp.s. c 6 s 501 are each amended to read as follows:

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

(1)(a) "Leasehold interest" 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. 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 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" 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.

(b) The term "leasehold interest" does not include:

(i) 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); or~~);

(ii) 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.

(c) "Publicly owned real or personal property" includes real or personal property owned by a federally recognized Indian tribe in the state and exempt from tax under RCW 84.36.010.

(2)(a) "Taxable rent" means contract rent as defined in (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. 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 (g) of this subsection. All other leasehold interests are subject to the determination of taxable rent under the terms of (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 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 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.

(c) "Contract rent" 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 is part of contract rent.

(d) "Contract rent" 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

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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 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 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 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, must be prorated from the date of prepayment.

(f) With respect to a "product lease", the value is that value determined at the time of sale under terms of the lease.

(g) If it 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 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 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 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" 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.

Sec. 4. RCW 82.29A.050 and 1992 c 206 s 6 are each amended to read as follows:

(1) The leasehold excise taxes provided for in RCW 82.29A.030 and 82.29A.040 ~~((shall))~~ must be paid by the lessee to the lessor and the lessor ~~((shall))~~ must collect such tax and remit the same to the department ~~((of revenue))~~. The tax ~~((shall))~~ must be payable at the same time as payments are due to the lessor for use of the property from which the leasehold interest arises, and in the case of payment of contract rent to a person other than the lessor, at the time of payment. The tax payment ~~((shall))~~ must be accompanied by such information as the department ~~((of revenue))~~ may require. In the case of prepaid contract rent the payment may be prorated in accordance with instructions of the department ~~((of revenue))~~ and the prorated portion of the tax ~~((shall be))~~ is due, one-half not later than May 31st and the other half not later than November 30th each year.

(2) The lessor receiving taxes payable under the provisions of this chapter ~~((shall))~~ must remit the same together with a return provided by the department, to the department of revenue on or before the last day of the month following the month in which the tax is collected. The department may relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event ~~((shall))~~ may returns be filed for a period greater than one year. The lessor ~~((shall be))~~ is fully liable for collection and remittance of the tax. The amount of tax until paid by the lessee to the lessor ~~((shall))~~ constitutes a debt from the lessee to the lessor. The tax required by this chapter ~~((shall))~~ must be stated separately from contract rent, and if not so separately stated for purposes of determining the tax due from the lessee to the lessor and from the lessor to the department, the contract rent does not include the tax imposed by this chapter. Where a lessee has failed to pay to the lessor the tax imposed by this chapter and the lessor has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the lessee for collection of the tax ~~((— PROVIDED, That))~~. However, taxes due where contract rent has not been paid ~~((shall))~~ must be reported by the lessor to the department and the lessee alone ~~((shall be))~~ is liable for payment of the tax to the department.

(3) Each person having a leasehold interest subject to the tax provided for in this chapter arising out of a lease of federally owned or federal trust lands ~~((shall)), or property owned by a federally recognized Indian tribe in the state and exempt from tax under RCW 84.36.010,~~ must report and remit the tax due directly to the department of revenue in the same manner and at the same time as the lessor would be required to report and remit the tax if such lessor were a state public entity.

Sec. 5. RCW 84.36.010 and 2010 c 281 s 1 are each amended to read as follows:

(1) All property belonging exclusively to the United States, the state, or any county or municipal corporation; all property belonging exclusively to any federally recognized Indian tribe, if (a) the tribe is located in the state, ~~((if that))~~ and (b) the property is used exclusively for essential government services; all state route number 16 corridor transportation systems and facilities constructed under chapter 47.46 RCW; all property under a financing contract pursuant to chapter 39.94 RCW or recorded agreement granting immediate possession and use to the public bodies listed in this section or under an order of immediate possession and use pursuant to RCW 8.04.090; and, for a period of forty years from acquisition, all property of a community center; is exempt from taxation. All property belonging exclusively to a foreign national government is exempt from taxation if that property is used exclusively as an office or residence for a consul or other official representative of the foreign national

government, and if the consul or other official representative is a citizen of that foreign nation.

(2) Property owned by a federally recognized Indian tribe, which is used for economic development purposes, may only qualify for the exemption from taxes in this section if the property was owned by the tribe prior to March 1, 2014.

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

(a) "Community center" means property, including a building or buildings, determined to be surplus to the needs of a district by a local school board, and purchased or acquired by a nonprofit organization for the purposes of converting them into community facilities for the delivery of nonresidential coordinated services for community members. The community center may make space available to businesses, individuals, or other parties through the loan or rental of space in or on the property.

(b) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, ~~(and)~~ utility services, and economic development.

(c) "Economic development" means commercial activities, including those that facilitate the creation or retention of businesses or jobs, or that improve the standard of living or economic health of tribal communities.

Sec. 6. RCW 84.36.451 and 2001 c 26 s 2 are each amended to read as follows:

(1) The following property ~~((shall be))~~ is exempt from taxation: Any and all rights to occupy or use any real or personal property owned in fee or held in trust by:

(a) The United States, the state of Washington, or any political subdivision or municipal corporation of the state of Washington, or a federally recognized Indian tribe for property exempt under RCW 84.36.010; or

(b) 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; and

(c) ~~((including))~~ Any leasehold interest arising from the property identified in (a) and (b) of this subsection as defined in RCW 82.29A.020.

(2) The exemption under this section ~~((shall))~~ does not apply to:

(a) Any such leasehold interests which are a part of operating properties of public utilities subject to assessment under chapter 84.12 RCW; or

(b) Any such leasehold interest consisting of three thousand or more residential and recreational lots that are or may be subleased for residential and recreational purposes.

(3) The exemption under this section ~~((shall))~~ may not be construed to modify the provisions of RCW 84.40.230.

Sec. 7. RCW 84.40.230 and 1994 c 124 s 25 are each amended to read as follows:

When any real property is sold on contract by the United States of America, the state, ~~((or))~~ any county or municipality, or any federally recognized Indian tribe, and the contract expresses or implies that the vendee is entitled to the possession, use, benefits and profits thereof and therefrom so long as the vendee complies with the terms of the contract, it ~~((shall be))~~ is deemed that the vendor retains title merely as security for the fulfillment of the contract, and the property ~~((shall))~~ must be assessed and taxed in the same manner as other similar property in private ownership is taxed, and the tax roll ~~((shall))~~ must contain, opposite the description of the property so assessed the following notation: "Subject to title remaining in the vendor" or other notation of similar significance. No foreclosure for delinquent taxes nor any deed issued pursuant thereto ~~((shall))~~ may extinguish or otherwise affect the title of the vendor. In any case under former law where the contract and not

the property was taxed no deed of the property described in such contract ~~((shall))~~ may ever be executed and delivered by the state or any county or municipality until all taxes assessed against such contract and local assessments assessed against the land described thereon are fully paid.

NEW SECTION. Sec. 8. A new section is added to chapter 82.29A RCW to read as follows:

(1) Property owned exclusively by a federally recognized Indian tribe that is exempt from property tax under RCW 84.36.010 is subject to payment in lieu of leasehold excise taxes, if:

(a) The tax exempt property is used exclusively for economic development, as defined in RCW 84.36.010;

(b) There is no taxable leasehold interest in the tax exempt property;

(c) The property is located outside of the tribe's reservation; and

(d) The property is not otherwise exempt from taxation by federal law.

(2) The amount of the payment in lieu of leasehold excise taxes must be determined jointly and in good faith negotiation between the tribe that owns the property and the county in which the property is located. However, the amount may not exceed the leasehold excise tax amount that would otherwise be owed by a taxable leasehold interest in the property. If the tribe and the county cannot agree to terms on the amount of payment in lieu of taxes, the department may determine the rate, provided that the amount may not exceed the leasehold excise tax amount that would otherwise be owed by a taxable leasehold interest in the property.

(3) Payment must be made by the tribe to the county. The county treasurer must distribute all such money collected solely to the local taxing districts, including cities, in the same proportion that each local taxing district would have shared if a leasehold excise tax had been levied.

NEW SECTION. Sec. 9. A new section is added to chapter 84.36 RCW to read as follows:

(1) To qualify in any year for exempt status for real or personal property used exclusively for essential government services under RCW 84.36.010, a federally recognized Indian tribe must file an initial application with the department of revenue on or before October 1st of the prior year. All applications must be filed on forms prescribed by the department and signed by an authorized agent of the federally recognized tribe.

(2) If the use for essential government services is based in whole or in part on economic development, the application must also include:

(a) If the economic development activities are those of a lessee, a declaration from both the federally recognized tribe and the lessee confirming a lease agreement exists for the exempt tax year.

(b) If the property is subject to the payment in lieu of leasehold excise tax as described in section 8 of this act, a declaration from both the federally recognized tribe and the county in which the property is located confirming that an agreement exists for the exempt tax year regarding the amount for the payment in lieu of leasehold excise tax.

(3) A federally recognized Indian tribe which files an application under the requirements of subsection (2) of this section, must file an annual renewal application, on forms prescribed by the department of revenue, on or before October 1st of each year. The application must contain a declaration certifying the continuing exempt status of the real or personal property, and that the lease agreement or agreement for payment in lieu of leasehold excise tax continue in good standing, or that a new lease or agreement exists.

NEW SECTION. Sec. 10. A new section is added to chapter 52.30 RCW to read as follows:

(1) When exempt tribal property is located within the boundaries of a fire protection district or a regional fire protection service authority, the fire protection district or authority is

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authorized to contract with the tribe for compensation for providing fire protection services in an amount and under such terms as are mutually agreed upon by the fire protection district or authority and the tribe.

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

(a) "Exempt tribal property" means property that is owned exclusively by a federally recognized Indian tribe and that is exempt from taxation under RCW 84.36.010.

(b) "Regional fire protection service authority" or "authority" has the same meaning as provided in RCW 52.26.020.

NEW SECTION. Sec. 11. A new section is added to chapter 43.136 RCW to read as follows:

By December 1, 2020, and in compliance with RCW 43.01.036, the joint legislative audit and review committee must provide an economic impact report to the legislature evaluating the impacts of changes made in this act regarding the leasehold tax and property tax treatment of property owned by a federally recognized Indian tribe. The economic impact report must indicate: The number of parcels and uses of land involved; the economic impacts to tribal governments; state and local government revenue reductions, increases, and shifts from all tax sources affected; impacts on public infrastructure and public services; impacts on business investment and business competition; a description of the types of business activities affected; impacts on the number of jobs created or lost; and any other data the joint legislative audit and review committee deems necessary in determining the economic impacts of this act.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act is null and void.

NEW SECTION. Sec. 13. This act applies to taxes levied for collection in 2015 and thereafter.

NEW SECTION. Sec. 14. This act expires January 1, 2022."

MOTION

Senator Parlette moved that the following amendment by Senator Parlette to the committee striking amendment be adopted:

Beginning on page 1, line 3 of the amendment, strike all material through "2022." on page 12, line 15, and insert the following:

"NEW SECTION. Sec. 1. (1) The governor's office of Indian affairs must coordinate development of an inventory of lands owned by federally recognized Indian tribes, in collaboration with state agencies deemed relevant by the governor's office of Indian affairs. The inventory must:

- (a) Include all lands owned by federally recognized Indian tribes, including trust and fee lands;
- (b) Identify lands by owner, ownership type, location, acreage, and, if practicable, principal use; and
- (c) Be accessible in a web-accessible format, including a GIS-based interactive map.

(2) State agencies identified under subsection (1) of this section must provide information and support as requested to the governor's office of Indian affairs relevant to implementation of this section. In implementing this section, the governor's office of Indian affairs may collaborate with and utilize information and other resources developed through the updated public lands inventory required under section 3174, chapter 19, Laws of 2013 2nd sp. sess.

(3) The inventory must be provided, consistent with RCW 43.01.036, to the governor and appropriate committees of the senate and house of representatives by September 1, 2015.

(4) This section expires June 30, 2016."

On page 12, line 17 of the title amendment, after "insert" strike all material through "date;" on line 21 and insert "creating a new section;"

Senators Parlette and Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

POINT OF INQUIRY

Senator Chase: "Would Senator Ericksen yield to a question?"

REMARKS BY THE PRESIDENT

President Owen: "No, he's not yielding."

Senators Chase and Sheldon spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Parlette on page 1, line 3 to the committee striking amendment to Engrossed Substitute House Bill No. 1287.

The motion by Senator Parlette failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1287.

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

MOTION

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

On page 1, line 3 of the title, after "tribe;" strike the remainder of the title and insert "amending RCW 82.29A.010, 82.29A.020, 82.29A.050, 84.36.010, 84.36.451, and 84.40.230; adding a new section to chapter 82.29A RCW; adding a new section to chapter 84.36 RCW; adding a new section to chapter 52.30 RCW; adding a new section to chapter 43.136 RCW; creating new sections; providing an effective date; and providing an expiration date."

MOTION

On motion of Senator Sheldon, the rules were suspended, Engrossed Substitute House Bill No. 1287 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Sheldon, McCoy spoke in favor of passage of the bill.

Senator Ericksen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1287 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1287 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hill, Hobbs, Holmquist Newbry, Keiser, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Nelson, O'Ban, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Braun, Brown, Dansel, Ericksen, Hatfield, Hewitt, Honeyford, King, Mullet, Padden, Parlette and Pearson

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1287 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2739, by House Committee on Appropriations Subcommittee on Education (originally sponsored by Representatives Ortiz-Self, Walsh, Santos, Bergquist, Walkinshaw, Kagi, Johnson, Ryu, Zeiger and Magendanz)

Requiring a report analyzing the correlation of certain family factors with academic and behavioral indicators of student success.

The measure was read the second time.

MOTION

On motion of Senator Litzow, the rules were suspended, Substitute House Bill No. 2739 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Litzow and Liias spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2739.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2739 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Dansel, Mullet, Padden and Rivers

SUBSTITUTE HOUSE BILL NO. 2739, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 2582, by Representatives Hargrove, Kagi and Walsh

Concerning filing a petition seeking termination of parental rights.

The measure was read the second time.

MOTION

Senator O'Ban moved that the following committee striking amendment by the Committee on Human Services & Corrections be not adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.34.138 and 2009 c 520 s 29, 2009 c 491 s 3, 2009 c 397 s 4, and 2009 c 152 s 1 are each reenacted and amended to read as follows:

(1) The status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145(1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision by the supervising agency or department shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department or supervising agency must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department or supervising agency may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department or supervising agency must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department or supervising agency of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty

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on the part of the department or supervising agency to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the supervising agency or the department is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Whether a parent's homelessness or lack of suitable housing is a significant factor delaying permanency for the child by preventing the return of the child to the home of the child's parent and whether housing assistance should be provided by the department or supervising agency;

(vii) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

(viii) Whether preference has been given to placement with the child's relatives if such placement is in the child's best interests;

(ix) Whether both in-state and, where appropriate, out-of-state placements have been considered;

(x) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(xi) Whether terms of visitation need to be modified;

(xii) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

(xiii) Whether any additional court orders need to be made to move the case toward permanency; and

(xiv) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed. If the court determines that the child has been in out-of-home care for at least seventeen consecutive months following the filing of a dependency petition and the parents have been noncompliant with court-ordered services and have made no progress towards correcting parental deficiencies, the court shall order that a petition seeking termination of parent and child relationship be filed unless the court makes a good cause exception based on the factors described in RCW 13.34.145.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with the supervising agency's case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the department's or supervising agency's case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's authority to order housing assistance under this chapter is: (a) Limited to cases in which a parent's homelessness or lack of suitable housing is a significant factor delaying permanency for the child and housing assistance would aid the parent in providing an appropriate home for the child; and (b) subject to the availability of funds appropriated for this specific purpose. Nothing in this chapter shall be construed to create an entitlement to housing assistance nor to create judicial authority to order the provision of such assistance to any person or family if the assistance or funding are unavailable or the child or family are not eligible for such assistance.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(~~(3)~~) (6)."

On page 1, line 2 of the title, after "rights;" strike the remainder of the title and insert "and reenacting and amending RCW 13.34.138."

The President declared the question before the Senate to be the motion by Senator O'Ban to not adopt the committee striking amendment by the Committee on Human Services & Corrections to Engrossed House Bill No. 2582.

The motion by Senator O'Ban carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator O'Ban moved that the following striking amendment by Senator Hargrove and others be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.138 and 2009 c 520 s 29, 2009 c 491 s 3, 2009 c 397 s 4, and 2009 c 152 s 1 are each reenacted and amended to read as follows:

(1) The status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145(1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision by the supervising agency or department shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department or supervising agency must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department or supervising agency may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department or supervising agency must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department or supervising agency of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department or supervising agency to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the supervising agency or the department is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Whether a parent's homelessness or lack of suitable housing is a significant factor delaying permanency for the child by preventing the return of the child to the home of the child's parent and whether housing assistance should be provided by the department or supervising agency;

(vii) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

(viii) Whether preference has been given to placement with the child's relatives if such placement is in the child's best interests;

(ix) Whether both in-state and, where appropriate, out-of-state placements have been considered;

(x) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(xi) Whether terms of visitation need to be modified;

(xii) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

(xiii) Whether any additional court orders need to be made to move the case toward permanency; and

(xiv) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed. Unless the court makes a good cause exception under RCW 13.34.145, the court shall order that a petition seeking termination of the parent and child relationship be filed if the court finds that:

(i) The child has been in out-of-home care for at least twelve consecutive months following the filing of a dependency petition;

(ii) The services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided;

(iii) There is no genuine issue of material fact that the parents have been noncompliant with court-ordered services; and

(iv) There is no genuine issue of material fact that the parents have made no progress toward successfully correcting parental deficiencies identified in a dependency proceeding under this chapter.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with the supervising agency's case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the department's or supervising agency's case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's authority to order housing assistance under this chapter is: (a) Limited to cases in which a parent's homelessness or lack of suitable housing is a significant factor delaying permanency for the child and housing assistance would aid the parent in

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providing an appropriate home for the child; and (b) subject to the availability of funds appropriated for this specific purpose. Nothing in this chapter shall be construed to create an entitlement to housing assistance nor to create judicial authority to order the provision of such assistance to any person or family if the assistance or funding are unavailable or the child or family are not eligible for such assistance.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(~~(3)~~) (6)."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Hargrove and others to Engrossed House Bill No. 2582.

The motion by Senator O'Ban carried and the striking amendment was adopted by voice vote.

MOTION

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

On page 1, line 2 of the title, after "rights;" strike the remainder of the title and insert "and reenacting and amending RCW 13.34.138."

MOTION

On motion of Senator O'Ban, the rules were suspended, Engrossed House Bill No. 2582 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator O'Ban spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2582 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2582 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Billig and Fraser

ENGROSSED HOUSE BILL NO. 2582 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2723, by Representatives Gregerson, Rodne, Orwall, Jinkins, Robinson, Freeman, Takko, Farrell, Bergquist, Riccelli, Fitzgibbon, Senn, Ryu, Morrell, Ortiz-Self, Clibborn, Kagi and Goodman

Modifying certain provisions governing foreclosures.

The measure was read the second time.

MOTION

On motion of Senator Angel, the rules were suspended, House Bill No. 2723 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Angel and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2723.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2723 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

HOUSE BILL NO. 2723, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2318, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Seaquist and Appleton)

Addressing contractor liability for industrial insurance premiums for not-for-profit nonemergency medicaid transportation brokers.

The measure was read the second time.

MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, Substitute House Bill No. 2318 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Holmquist Newbry and Angel spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2318.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2318 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Holmquist

Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senator Hasegawa

SUBSTITUTE HOUSE BILL NO. 2318, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1773, by House Committee on Health Care & Wellness (originally sponsored by Representatives Morrell, Rodne, Cody, Green, Ryu, Lias, Farrell and Santos)

Concerning the practice of midwifery.

The measure was read the second time.

MOTION

On motion of Senator Becker, the rules were suspended, Second Substitute House Bill No. 1773 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Becker, Mullet and Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1773.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1773 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SECOND SUBSTITUTE HOUSE BILL NO. 1773, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2724, by House Committee on Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Ortiz-Self, Appleton, Walkinshaw, Sawyer, Ryu, Roberts, Stanford and Wylie)

Exempting information concerning archaeological resources and traditional cultural places from public disclosure.

The measure was read the second time.

MOTION

Senator Parlette moved that the following amendment by Senators Parlette and Rivers be adopted:

On page 2, line 4, after "An" strike "archeological" and insert "archaeological"

On page 2, after line 7, insert the following:

"(4) The local government or agency shall respond to requests from the owner of the real property for public records exempt under subsection (1), (2), or (3) of this section by providing information to the requestor on how to contact the department of archaeology and historic preservation to obtain available locality information on archaeological and cultural resources."

Senator Parlette spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Parlette and Rivers on page 2, line 4 to Substitute House Bill No. 2724.

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

MOTION

On motion of Senator Roach, the rules were suspended, Substitute House Bill No. 2724 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Roach and Baumgartner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2724 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2724 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Dansel and Padden

SUBSTITUTE HOUSE BILL NO. 2724 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1129, by House Committee on Transportation (originally sponsored by Representative Morris)

Concerning ferry vessel replacement.

The measure was read the second time.

MOTION

Senator King moved that the following committee striking amendment by the Committee on Transportation be adopted:

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Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.60.322 and 2011 1st sp.s. c 16 s 2 are each amended to read as follows:

(1) The capital vessel replacement account is created in the motor vehicle fund. All revenues generated from the vessel replacement surcharge under RCW 47.60.315(7) and service fees collected by the department of licensing or county auditor or other agent appointed by the director under RCW 46.17.040 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 the construction or purchase of ferry vessels and to pay the principal and interest on bonds authorized for the construction or purchase of ferry vessels. However, expenditures from the account must first be used to support the construction or purchase, including any applicable financing costs, of a ferry vessel with a carrying capacity of at least one hundred forty-four cars.

(2) The state treasurer may not transfer any moneys from the capital vessel replacement account except to the transportation 2003 account (nickel account) for debt service on bonds issued for the construction of ~~((a))~~ 144-car class ferry vessels.

(3) The legislature may transfer from the capital vessel replacement account to the Puget Sound ferry operations account such amounts as reflect the excess fund balance of the capital vessel replacement account.

Sec. 2. RCW 46.17.040 and 2011 c 171 s 55 are each amended to read as follows:

~~((A))~~ (1) The department, county auditor or other agent, or subagent appointed by the director shall collect a service fee of:

~~((+))~~ (a) Twelve dollars for changes in a certificate of title, with or without registration renewal, or for verification of record and preparation of an affidavit of lost title other than at the time of the certificate of title application or transfer; and

~~((2))~~ (b) Five dollars for a registration renewal, issuing a transit permit, or any other service under this section.

(2) Service fees collected under this section by the department or county auditor or other agent appointed by the director must be credited to the capital vessel replacement account under RCW 47.60.322.

Sec. 3. RCW 46.17.050 and 2010 c 161 s 505 are each amended to read as follows:

Before accepting a report of sale filed under RCW 46.12.650(2), the county auditor or other agent or subagent appointed by the director shall require the applicant to pay:

(1) The filing fee under RCW 46.17.005(1), the license plate technology fee under RCW 46.17.015, and the license service fee under RCW 46.17.025 to the county auditor or other agent; and

(2) The ~~((subagent))~~ service fee under RCW 46.17.040~~((2))~~ (1)(b) to the subagent.

Sec. 4. RCW 46.17.060 and 2010 c 161 s 507 are each amended to read as follows:

Before accepting a transitional ownership record filed under RCW 46.12.660, the county auditor or other agent or subagent appointed by the director shall require the applicant to pay:

(1) The filing fee under RCW 46.17.005(1), the license plate technology fee under RCW 46.17.015, and the license service fee under RCW 46.17.025 to the county auditor or other agent; and

(2) The ~~((subagent))~~ service fee under RCW 46.17.040~~((2))~~ (1)(b) to the subagent.

NEW SECTION. **Sec. 5.** This act applies to vehicle registrations that are due or become due on or after January 1, 2015, and certificate of title transactions that are processed on or after January 1, 2015."

MOTION

Senator Angel moved that the following amendment by Senators Angel, King and Rolfes to the committee striking amendment be adopted:

On page 1, after line 21 of the amendment, strike all of subsection (3).

Senators Angel and Eide spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Angel, King and Rolfes on page 1, after line 21 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1129.

The motion by Senator Angel carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation as amended to Engrossed Second Substitute House Bill No. 1129.

The motion by Senator King carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

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

On page 1, line 1 of the title, after "replacement;" strike the remainder of the title and insert "amending RCW 47.60.322, 46.17.040, 46.17.050, and 46.17.060; and creating a new section."

MOTION

On motion of Senator King, the rules were suspended, Engrossed Second Substitute House Bill No. 1129 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Ranker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1129 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1129 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 8; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Fain, Fraser, Frockt, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler and Tom

Voting nay: Senators Braun, Brown, Dandel, Ericksen, Hasegawa, Holmquist Newbry, Padden and Sheldon

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1129 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1117, by House Committee on Judiciary (originally sponsored by Representatives Hansen, Rodne and Pedersen)

Concerning the transfer of real property by deed taking effect at the grantor's death.

The measure was read the second time.

MOTION

Senator Pedersen moved that the following committee striking amendment by the Committee on Law & Justice be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. SHORT TITLE. This chapter may be cited as the Washington uniform real property transfer on death act.

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

(1) "Beneficiary" means a person that receives property under a transfer on death deed.

(2) "Designated beneficiary" means a person designated to receive property in a transfer on death deed.

(3) "Joint owner" means an individual who owns property concurrently with one or more other individuals with a right of survivorship. The term includes a joint tenant with a right to survivorship. The term does not include a tenant in common or owner of community property.

(4) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(5) "Property" means an interest in real property located in this state which is transferable on the death of the owner.

(6) "Transfer on death deed" means a deed authorized under this chapter.

(7) "Transferor" means an individual who makes a transfer on death deed.

NEW SECTION. Sec. 3. APPLICABILITY. This chapter applies to a transfer on death deed made before, on, or after the effective date of this section by a transferor dying on or after the effective date of this section.

NEW SECTION. Sec. 4. NONEXCLUSIVITY. The chapter does not affect any method of transferring property otherwise permitted under the law of this state.

NEW SECTION. Sec. 5. TRANSFER ON DEATH DEED AUTHORIZED. An individual may transfer property to one or more beneficiaries effective at the transferor's death by a transfer on death deed. A transfer on death deed may not be used to effect a deed in lieu of foreclosure of a deed of trust.

NEW SECTION. Sec. 6. TRANSFER ON DEATH DEED REVOCABLE. A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision.

NEW SECTION. Sec. 7. TRANSFER ON DEATH DEED NONTTESTAMENTARY. A transfer on death deed is nontestamentary.

NEW SECTION. Sec. 8. CAPACITY OF TRANSFEROR. The capacity required to make or revoke a transfer on death deed is the same as the capacity required to make a will.

NEW SECTION. Sec. 9. REQUIREMENTS. A transfer on death deed:

(1) Except as otherwise provided in subsection (2) of this section, must contain the essential elements and formalities of a properly recordable inter vivos deed;

(2) Must state that the transfer to the designated beneficiary is to occur at the transferor's death; and

(3) Must be recorded before the transferor's death in the public records in the office of the auditor of the county where the property is located.

NEW SECTION. Sec. 10. NOTICE, DELIVERY, ACCEPTANCE, CONSIDERATION NOT REQUIRED. A transfer on death deed is effective without:

(1) Notice or delivery to or acceptance by the designated beneficiary during the transferor's life; or

(2) Consideration.

NEW SECTION. Sec. 11. REVOCATION BY INSTRUMENT AUTHORIZED; REVOCATION BY ACT NOT PERMITTED. (1) Subject to subsection (2) of this section, an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument:

(a) Is one of the following:

(i) A transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency;

(ii) An instrument of revocation that expressly revokes the deed or part of the deed; or

(iii) An inter vivos deed that expressly revokes the transfer on death deed or part of the deed; and

(b) Is acknowledged by the transferor after the acknowledgment of the deed being revoked and recorded before the transferor's death in the public records in the office of the county auditor of the county where the deed is recorded.

(2) If a transfer on death deed is made by more than one transferor:

(a) Revocation by a transferor does not affect the deed as to the interest of another transferor;

(b) A deed of joint owners is revoked only if it is revoked by all of the joint owners living at the time that the revocation is recorded; and

(c) A deed of community property by both spouses or by both domestic partners is revoked only if it is revoked by both of the spouses or domestic partners, provided that if only one of the spouses or domestic partners is then surviving, that spouse or domestic partner may revoke the deed.

(3) After a transfer on death deed is recorded, it may not be revoked by a revocatory act on the deed.

(4) This section does not limit the effect of an inter vivos transfer of the property.

NEW SECTION. Sec. 12. EFFECT OF TRANSFER ON DEATH DEED DURING TRANSFEROR'S LIFE. During a transferor's life, a transfer on death deed does not:

(1) Affect an interest or right of the transferor or any other owner, including the right to transfer or encumber the property;

(2) Affect an interest or right of a transferee, even if the transferee has actual or constructive notice of the deed;

(3) Affect an interest or right of a secured or unsecured creditor or future creditor of the transferor, even if the creditor has actual or constructive notice of the deed;

(4) Affect the transferor's or designated beneficiary's eligibility for any form of public assistance;

(5) Create a legal or equitable interest in favor of the designated beneficiary; or

(6) Subject the property to claims or process of a creditor of the designated beneficiary.

NEW SECTION. Sec. 13. EFFECT OF TRANSFER ON DEATH DEED AT TRANSFEROR'S DEATH. (1) Except as otherwise provided in this section, or in RCW 11.07.010, and 11.05A.030, on the death of the transferor, the following rules apply

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to property that is the subject of a transfer on death deed and owned by the transferor at death:

(a) Subject to (b) of this subsection, the interest in the property is transferred to the designated beneficiary in accordance with the deed.

(b) The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor lapses.

(c) Subject to (d) of this subsection, concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship.

(d) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.

(2) Subject to chapter 65.08 RCW, a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor's death, including liens recorded within twenty-four months after the transferor's death under RCW 41.05A.090 and 43.20B.080. For purposes of this subsection and chapter 65.08 RCW, the recording of the transfer on death deed is deemed to have occurred at the transferor's death.

(3) If a transferor is a joint owner and is:

(a) Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or

(b) The last surviving joint owner, the transfer on death deed is effective.

(4) If the property that is the subject of a transfer on death deed is community property and:

(a) The transferor is married and is not joined in the deed by the transferor's spouse or is in a registered domestic partnership and is not joined in the deed by the transferor's domestic partner, the transferor's interest in the property is transferred to the designated beneficiary in accordance with the deed on the transferor's death; or

(b) The transferor is married and is joined in the deed by the transferor's spouse, or is in a registered domestic partnership and is joined in the deed by the transferor's domestic partner, and:

(i) Is survived by the transferor's spouse or domestic partner, the deed is not effective upon the transferor's death; or

(ii) Is the surviving spouse or domestic partner, the transfer on death deed is effective on the transferor's death with respect to the transferor's interest in the property as of the time of the transferor's death.

(5) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.

NEW SECTION. Sec. 14. DISCLAIMER. A beneficiary may disclaim all or part of the beneficiary's interest as provided by chapter 11.86 RCW.

NEW SECTION. Sec. 15. LIABILITY FOR CREDITOR CLAIMS AND STATUTORY ALLOWANCES. A beneficiary of a transfer on death deed is liable for an allowed claim against the transferor's probate estate and statutory allowances to a surviving spouse and children to the extent provided in RCW 11.18.200, 11.42.085, and chapter 11.54 RCW.

NEW SECTION. Sec. 16. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

NEW SECTION. Sec. 17. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, and supersedes the federal

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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).

Sec. 18. RCW 11.02.005 and 2011 c 327 s 1 are each reenacted and amended to read as follows:

When used in this title, unless otherwise required from the context:

(1) "Administrator" means a personal representative of the estate of a decedent and the term may be used in lieu of "personal representative" wherever required by context.

(2) "Codicil" means a will that modifies or partially revokes an existing earlier will. A codicil need not refer to or be attached to the earlier will.

(3) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(4) "Executor" means a personal representative of the estate of a decedent appointed by will and the term may be used in lieu of "personal representative" wherever required by context.

(5) "Guardian" or "limited guardian" means a personal representative of the person or estate of an incompetent or disabled person as defined in RCW 11.88.010 and the term may be used in lieu of "personal representative" wherever required by context.

(6) "Heirs" denotes those persons, including the surviving spouse or surviving domestic partner, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

(7) "Internal revenue code" means the United States internal revenue code of 1986, as amended or renumbered as of January 1, 2001.

(8) "Issue" means all the lineal descendants of an individual. An adopted individual is a lineal descendant of each of his or her adoptive parents and of all individuals with regard to which each adoptive parent is a lineal descendant. A child conceived prior to the death of a parent but born after the death of the deceased parent is considered to be the surviving issue of the deceased parent for purposes of this title.

(9) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the deceased or the estate.

(10) "Nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under a written instrument or arrangement other than the person's will. "Nonprobate asset" includes, but is not limited to, a right or interest passing under a joint tenancy with right of survivorship, joint bank account with right of survivorship, transfer on death deed, payable on death or trust bank account, transfer on death security or security account, deed or conveyance if possession has been postponed until the death of the person, trust of which the person is grantor and that becomes effective or irrevocable only upon the person's death, community property agreement, individual retirement account or bond, or note or other contract the payment or performance of which is affected by the death of the person. "Nonprobate asset" does not include: A payable-on-death provision of a life insurance policy, annuity, or other similar contract, or of an employee benefit plan; a right or interest passing by descent and distribution under chapter 11.04 RCW; a right or interest if, before death, the person has irrevocably transferred the right or interest, the person has waived the power to transfer it or, in the case of contractual arrangement, the person has waived the

unilateral right to rescind or modify the arrangement; or a right or interest held by the person solely in a fiduciary capacity. For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, RCW 11.07.010(5) applies. For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, see RCW 11.07.010(5). For the definition of "nonprobate asset" relating to testamentary disposition of nonprobate assets, see RCW 11.11.010(7).

(11) "Personal representative" includes executor, administrator, special administrator, and guardian or limited guardian and special representative.

(12) "Real estate" includes, except as otherwise specifically provided herein, all lands, tenements, and hereditaments, and all rights thereto, and all interest therein possessed and claimed in fee simple, or for the life of a third person.

(13) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to a decedent, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the decedent who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the decedent but who left issue surviving the decedent; each share of a deceased person in the nearest degree (~~shall~~) must be divided among those of the deceased person's issue who survive the decedent and have no ancestor then living who is in the line of relationship between them and the decedent, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the decedent.

(14) References to "section 2033A" of the internal revenue code in wills, trust agreements, powers of appointment, beneficiary designations, and other instruments governed by or subject to this title (~~shall be~~) are deemed to refer to the comparable or corresponding provisions of section 2057 of the internal revenue code, as added by section 6006(b) of the internal revenue service restructuring act of 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A "exclusion" (~~shall be~~) are deemed to mean the section 2057 deduction.

(15) "Settlor" has the same meaning as provided for "trustor" in this section.

(16) "Special administrator" means a personal representative of the estate of a decedent appointed for limited purposes and the term may be used in lieu of "personal representative" wherever required by context.

(17) "Surviving spouse" or "surviving domestic partner" does not include an individual whose marriage to or state registered domestic partnership with the decedent has been terminated, dissolved, or invalidated unless, by virtue of a subsequent marriage or state registered domestic partnership, he or she is married to or in a domestic partnership with the decedent at the time of death. A decree of separation that does not terminate the status of spouses or domestic partners is not a dissolution or invalidation for purposes of this subsection.

(18) "Trustee" means an original, added, or successor trustee and includes the state, or any agency thereof, when it is acting as the trustee of a trust to which chapter 11.98 RCW applies.

(19) "Trustor" means a person, including a testator, who creates, or contributes property to, a trust.

(20) "Will" means an instrument validly executed as required by RCW 11.12.020.

Words that import the singular number may also be applied to the plural of persons and things.

Words importing the masculine gender only may be extended to females also.

Sec. 19. RCW 11.07.010 and 2008 c 6 s 906 are each amended to read as follows:

(1) This section applies to all nonprobate assets, wherever situated, held at the time of entry of a decree of dissolution of marriage or state registered domestic partnership or a declaration of invalidity or certification of termination of a state registered domestic partnership.

(2)(a) If a marriage or state registered domestic partnership is dissolved or invalidated, or a state registered domestic partnership terminated, a provision made prior to that event that relates to the payment or transfer at death of the decedent's interest in a nonprobate asset in favor of or granting an interest or power to the decedent's former spouse or state registered domestic partner, is revoked. A provision affected by this section must be interpreted, and the nonprobate asset affected passes, as if the former spouse or former state registered domestic partner, failed to survive the decedent, having died at the time of entry of the decree of dissolution or declaration of invalidity or termination of state registered domestic partnership.

(b) This subsection does not apply if and to the extent that:

(i) The instrument governing disposition of the nonprobate asset expressly provides otherwise;

(ii) The decree of dissolution, declaration of invalidity, or other court order requires that the decedent maintain a nonprobate asset for the benefit of a former spouse or former state registered domestic partner or children of the marriage or domestic partnership, payable on the decedent's death either outright or in trust, and other nonprobate assets of the decedent fulfilling such a requirement for the benefit of the former spouse or former state registered domestic partner or children of the marriage or domestic partnership do not exist at the decedent's death;

(iii) A court order requires that the decedent maintain a nonprobate asset for the benefit of another, payable on the decedent's death either outright or in a trust, and other nonprobate assets of the decedent fulfilling such a requirement do not exist at the decedent's death; or

(iv) If not for this subsection, the decedent could not have effected the revocation by unilateral action because of the terms of the decree, declaration, termination of state registered domestic partnership, or for any other reason, immediately after the entry of the decree of dissolution, declaration of invalidity, or termination of state registered domestic partnership.

(3)(a) A payor or other third party in possession or control of a nonprobate asset at the time of the decedent's death is not liable for making a payment or transferring an interest in a nonprobate asset to a decedent's former spouse or state registered domestic partner, whose interest in the nonprobate asset is revoked under this section, or for taking another action in reliance on the validity of the instrument governing disposition of the nonprobate asset, before the payor or other third party has actual knowledge of the dissolution or other invalidation of marriage or termination of the state registered domestic partnership. A payor or other third party is liable for a payment or transfer made or other action taken after the payor or other third party has actual knowledge of a revocation under this section.

(b) This section does not require a payor or other third party to pay or transfer a nonprobate asset to a beneficiary designated in a governing instrument affected by the dissolution or other invalidation of marriage or termination of state registered domestic partnership, or to another person claiming an interest in the nonprobate asset, if the payor or third party has actual knowledge of the existence of a dispute between the former spouse or former state registered domestic partner, and the beneficiaries or other persons concerning rights of ownership of the nonprobate asset as a result of

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the application of this section among the former spouse or former state registered domestic partner, and the beneficiaries or among other persons, or if the payor or third party is otherwise uncertain as to who is entitled to the nonprobate asset under this section. In such a case, the payor or third party may, without liability, notify in writing all beneficiaries or other persons claiming an interest in the nonprobate asset of either the existence of the dispute or its uncertainty as to who is entitled to payment or transfer of the nonprobate asset. The payor or third party may also, without liability, refuse to pay or transfer a nonprobate asset in such a circumstance to a beneficiary or other person claiming an interest until the time that either:

(i) All beneficiaries and other interested persons claiming an interest have consented in writing to the payment or transfer; or

(ii) The payment or transfer is authorized or directed by a court of proper jurisdiction.

(c) Notwithstanding subsections (1) and (2) of this section and (a) and (b) of this subsection, a payor or other third party having actual knowledge of the existence of a dispute between beneficiaries or other persons concerning rights to a nonprobate asset as a result of the application of this section may condition the payment or transfer of the nonprobate asset on execution, in a form and with security acceptable to the payor or other third party, of a bond in an amount that is double the fair market value of the nonprobate asset at the time of the decedent's death or the amount of an adverse claim, whichever is the lesser, or of a similar instrument to provide security to the payor or other third party, indemnifying the payor or other third party for any liability, loss, damage, costs, and expenses for and on account of payment or transfer of the nonprobate asset.

(d) As used in this subsection, "actual knowledge" means, for a payor or other third party in possession or control of the nonprobate asset at or following the decedent's death, written notice to the payor or other third party, or to an officer of a payor or third party in the course of his or her employment, received after the decedent's death and within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge. The notice must identify the nonprobate asset with reasonable specificity. The notice also must be sufficient to inform the payor or other third party of the revocation of the provisions in favor of the decedent's spouse or state registered domestic partner, by reason of the dissolution or invalidation of marriage or termination of state registered domestic partnership, or to inform the payor or third party of a dispute concerning rights to a nonprobate asset as a result of the application of this section. Receipt of the notice for a period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(4)(a) A person who purchases a nonprobate asset from a former spouse, former state registered domestic partner, or other person, for value and without actual knowledge, or who receives from a former spouse, former state registered domestic partner, or other person payment or transfer of a nonprobate asset without actual knowledge and in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, property, or benefit nor is liable under this section for the amount of the payment or the value of the nonprobate asset. However, a former spouse, former state registered domestic partner, or other person who, with actual knowledge, not for value, or not in satisfaction of a legally enforceable obligation, receives payment or transfer of a nonprobate asset to which that person is not entitled under this section is obligated to return the payment or nonprobate asset, or is personally liable for the amount of the payment or value

of the nonprobate asset, to the person who is entitled to it under this section.

(b) As used in this subsection, "actual knowledge" means, for a person described in (a) of this subsection who purchases or receives a nonprobate asset from a former spouse, former state registered domestic partner, or other person, personal knowledge or possession of documents relating to the revocation upon dissolution or invalidation of marriage of provisions relating to the payment or transfer at the decedent's death of the nonprobate asset, received within a time after the decedent's death and before the purchase or receipt that is sufficient to afford the person purchasing or receiving the nonprobate asset reasonable opportunity to act upon the knowledge. Receipt of the personal knowledge or possession of the documents for a period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(5)(a) As used in this section, "nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under only the following written instruments or arrangements other than the decedent's will:

~~((a))~~ (i) A payable-on-death provision of a life insurance policy, employee benefit plan, annuity or similar contract, or individual retirement account, unless provided otherwise by controlling federal law;

~~((b))~~ (ii) A payable-on-death, trust, or joint with right of survivorship bank account;

~~((c))~~ (iii) A trust of which the person is a grantor and that becomes effective or irrevocable only upon the person's death;

~~((d))~~ (iv) Transfer on death beneficiary designations of a transfer on death or pay on death security, or joint tenancy or joint tenancy with right of survivorship designations of a security, if such designations are authorized under Washington law;

~~((e))~~ (v) A transfer on death, pay on death, joint tenancy, or joint tenancy with right of survivorship brokerage account;

~~((f))~~ (vi) A transfer on death deed;

~~((g))~~ (vii) Unless otherwise specifically provided therein, a contract wherein payment or performance under that contract is affected by the death of the person; or

~~((h))~~ (viii) Unless otherwise specifically provided therein, any other written instrument of transfer, within the meaning of RCW 11.02.091(3), containing a provision for the nonprobate transfer of an asset at death.

(b) For the general definition in this title of "nonprobate asset," see RCW 11.02.005~~((45))~~ (10) and for the definition of "nonprobate asset" relating to testamentary disposition of nonprobate assets, see RCW 11.11.010(7). For the purposes of this chapter, a "bank account" includes an account into or from which cash deposits and withdrawals can be made, and includes demand deposit accounts, time deposit accounts, money market accounts, or certificates of deposit, maintained at a bank, savings and loan association, credit union, brokerage house, or similar financial institution.

(6) This section is remedial in nature and applies as of July 25, 1993, to decrees of dissolution and declarations of invalidity entered after July 24, 1993, and this section applies as of January 1, 1995, to decrees of dissolution and declarations of invalidity entered before July 25, 1993.

Sec. 20. RCW 11.11.010 and 2008 c 6 s 909 are each amended to read as follows:

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

(1)(a) "Actual knowledge" means:

(i) For a financial institution, whether acting as personal representative or otherwise, or other third party in possession or control of a nonprobate asset, receipt of written notice that: (A) Complies with RCW 11.11.050; (B) pertains to the testamentary disposition or ownership of a nonprobate asset in its possession or control; and (C) is received by the financial institution or third party after the death of the owner in a time sufficient to afford the financial institution or third party a reasonable opportunity to act upon the knowledge; and

(ii) For a personal representative that is not a financial institution, personal knowledge or possession of documents relating to the testamentary disposition or ownership of a nonprobate asset of the owner sufficient to afford the personal representative reasonable opportunity to act upon the knowledge, including reasonable opportunity for the personal representative to provide the written notice under RCW 11.11.050.

(b) For the purposes of (a) of this subsection, notice of more than thirty days is presumed to be notice that is sufficient to afford the party a reasonable opportunity to act upon the knowledge, but notice of less than five business days is presumed not to be a sufficient notice for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(2) "Beneficiary" means the person designated to receive a nonprobate asset upon the death of the owner by means other than the owner's will.

(3) "Broker" means a person defined as a broker or dealer under the federal securities laws.

(4) "Date of will" means, as to any nonprobate asset, the date of signature of the will or codicil that refers to the asset and disposes of it.

(5) "Designate" means a written means by which the owner selects a beneficiary, including but not limited to instruments under contractual arrangements and registration of accounts, and "designation" means the selection.

(6) "Financial institution" means: A bank, trust company, mutual savings bank, savings and loan association, credit union, broker, or issuer of stock or its transfer agent.

(7)(a) "Nonprobate asset" means a nonprobate asset within the meaning of RCW 11.02.005, but excluding the following:

(i) A right or interest in real property passing under a joint tenancy with right of survivorship;

(ii) A deed or conveyance for which possession has been postponed until the death of the owner;

(iii) A transfer on death deed;

(iv) A right or interest passing under a community property agreement; and

~~((iv))~~ (v) An individual retirement account or bond.

(b) For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse or former domestic partner upon dissolution of marriage or state registered domestic partnership or declaration of invalidity of marriage or state registered domestic partnership, see RCW 11.07.010(5).

(8) "Owner" means a person who, during life, has beneficial ownership of the nonprobate asset.

(9) "Request" means a request by the beneficiary for transfer of a nonprobate asset after the death of the owner, if it complies with all conditions of the arrangement, including reasonable special requirements concerning necessary signatures and regulations of the financial institution or other third party, or by the personal representative of the owner's estate or the testamentary beneficiary, if it complies with the owner's will and any additional conditions of the financial institution or third party for such transfer.

(10) "Testamentary beneficiary" means a person named under the owner's will to receive a nonprobate asset under this chapter, including but not limited to the trustee of a testamentary trust.

(11) "Third party" means a person, including a financial institution, having possession of or control over a nonprobate asset at the death of the owner, including the trustee of a revocable living trust and surviving joint tenant or tenants.

Sec. 21. RCW 11.18.200 and 1999 c 42 s 605 are each amended to read as follows:

(1) Unless expressly exempted by statute, a beneficiary of a nonprobate asset that was subject to satisfaction of the decedent's general liabilities immediately before the decedent's death takes the asset subject to liabilities, claims, estate taxes, and the fair share of expenses of administration reasonably incurred by the personal representative in the transfer of or administration upon the asset. The beneficiary of such an asset is liable to account to the personal representative to the extent necessary to satisfy liabilities, claims, the asset's fair share of expenses of administration, and the asset's share of any applicable estate taxes under chapter ~~((83.110))~~ 83.110A RCW. Before making demand that a beneficiary of a nonprobate asset account to the personal representative, the personal representative ~~((shall))~~ must give notice to the beneficiary, in the manner provided in chapter 11.96A RCW, that the beneficiary is liable to account under this section.

(2) The following rules govern in applying subsection (1) of this section:

(a) A beneficiary of property passing at death under a community property agreement takes the property subject to the decedent's liabilities, claims, estate taxes, and administration expenses as described in subsection (1) of this section. However, assets existing as community or separate property immediately before the decedent's death under the community property agreement are subject to the decedent's liabilities and claims to the same extent that they would have been had they been assets of the probate estate.

(b) A beneficiary of property held in joint tenancy form with right of survivorship, including without limitation United States savings bonds or similar obligations, takes the property subject to the decedent's liabilities, claims, estate taxes, and administration expenses as described in subsection (1) of this section to the extent of the decedent's beneficial ownership interest in the property immediately before death.

(c) A beneficiary of payable-on-death or trust bank accounts, bonds, securities, or similar obligations, including without limitation United States bonds or similar obligations, takes the property subject to the decedent's liabilities, claims, estate taxes, and administration expenses as described in subsection (1) of this section, to the extent of the decedent's beneficial ownership interest in the property immediately before death.

(d) A beneficiary of a transfer on death deed or of deeds or conveyances made by the decedent if possession has been postponed until the death of the decedent takes the property subject to the decedent's liabilities, claims, estate taxes, and administration expenses as described in subsection (1) of this section, to the extent of the decedent's beneficial ownership interest in the property immediately before death.

(e) A trust for the decedent's use of which the decedent is the grantor is subject to the decedent's liabilities, claims, estate taxes, and administration expenses as described in subsection (1) of this section, to the same extent as the trust was subject to claims of the decedent's creditors immediately before death under RCW 19.36.020.

(f) A trust not for the use of the grantor but of which the decedent is the grantor and that becomes effective or irrevocable only upon the decedent's death is subject to the decedent's claims, liabilities, estate taxes, and expenses of administration as described in subsection (1) of this section.

(g) Anything in this section to the contrary notwithstanding, nonprobate assets that existed as community property immediately

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before the decedent's death are subject to the decedent's liabilities and claims to the same extent that they would have been had they been assets of the probate estate.

(h) The liability of a beneficiary of life insurance is governed by chapter 48.18 RCW.

(i) The liability of a beneficiary of pension or retirement employee benefits is governed by chapter 6.15 RCW.

(j) An inference may not be drawn from (a) through (i) of this subsection that a beneficiary of nonprobate assets other than those assets specifically described in (a) through (i) of this subsection does or does not take the assets subject to claims, liabilities, estate taxes, and administration expenses as described in subsection (1) of this section.

(3) Nothing in this section derogates from the rights of a person interested in the estate to recover any applicable estate tax under chapter ~~((83.110))~~ 83.110A RCW or from the liability of any beneficiary for estate tax under chapter ~~((83.110))~~ 83.110A RCW.

(4) Nonprobate assets that may be responsible for the satisfaction of the decedent's general liabilities and claims abate together with the probate assets of the estate in accord with chapter 11.10 RCW.

Sec. 22. RCW 11.86.011 and 1989 c 34 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) "Beneficiary" means the person entitled, but for the person's disclaimer, to take an interest.

(2) "Interest" includes the whole of any property, real or personal, legal or equitable, or any fractional part, share, or particular portion or specific assets thereof, any vested or contingent interest in any such property, any power to appoint, consume, apply, or expend property, or any other right, power, privilege, or immunity relating to property. "Interest" includes, but is not limited to, an interest created in any of the following manners:

- (a) By intestate succession;
- (b) Under a will;
- (c) Under a trust;
- (d) By succession to a disclaimed interest;
- (e) By virtue of an election to take against a will;
- (f) By creation of a power of appointment;
- (g) By exercise or nonexercise of a power of appointment;
- (h) By an inter vivos gift, whether outright or in trust;
- (i) By surviving the death of a depositor of a trust or P.O.D. account within the meaning of RCW 30.22.040;
- (j) Under an insurance or annuity contract;
- (k) By surviving the death of another joint tenant;
- (l) Under an employee benefit plan;
- (m) Under an individual retirement account, annuity, or bond;
- (n) Under a community property agreement; ~~((e*))~~
- (o) By surviving the death of a transferor of a transfer on death deed; or
- (p) Any other interest created by any testamentary or inter vivos instrument or by operation of law.

(3) "Creator of the interest" means a person who establishes, declares, or otherwise creates an interest.

(4) "Disclaimer" means any writing which declines, refuses, renounces, or disclaims any interest that would otherwise be taken by a beneficiary.

(5) "Disclaimant" means a beneficiary who executes a disclaimer on his or her own behalf or a person who executes a disclaimer on behalf of a beneficiary.

(6) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, or other entity.

(7)(a) "Date of the transfer" means:

~~((a*))~~ (i) For an inter vivos transfer, the date of the creation of the interest; or

~~((b*))~~ (ii) For a transfer upon the death of the creator of the interest, the date of the death of the creator.

~~(b)~~ A joint tenancy interest of a deceased joint tenant ~~((shall be))~~ is deemed to be transferred at the death of the joint tenant rather than at the creation of the joint tenancy.

Sec. 23. RCW 11.94.050 and 2011 c 327 s 4 are each amended to read as follows:

(1) Although a designated attorney-in-fact or agent has all powers of absolute ownership of the principal, or the document has language to indicate that the attorney-in-fact or agent ~~((shall have))~~ has all the powers the principal would have if alive and competent, the attorney-in-fact or agent ~~((shall))~~ does not have the power to make, amend, alter, or revoke the principal's wills or codicils, and ~~((shall))~~ does not have the power, unless specifically provided otherwise in the document: To make, amend, alter, or revoke any of the principal's life insurance, annuity, or similar contract beneficiary designations, employee benefit plan beneficiary designations, trust agreements, registration of the principal's securities in beneficiary form, payable on death or transfer on death beneficiary designations, designation of persons as joint tenants with right of survivorship with the principal with respect to any of the principal's property, community property agreements, transfer on death deeds, or any other provisions for nonprobate transfer at death contained in nontestamentary instruments described in RCW 11.02.091; to make any gifts of property owned by the principal; to exercise the principal's rights to distribute property in trust or cause a trustee to distribute property in trust to the extent consistent with the terms of the trust agreement; to make transfers of property to any trust (whether or not created by the principal) unless the trust benefits the principal alone and does not have dispositive provisions which are different from those which would have governed the property had it not been transferred into the trust; or to disclaim property.

(2) Nothing in subsection (1) of this section prohibits an attorney-in-fact or agent from making any transfer of resources not prohibited under chapter 74.09 RCW when the transfer is for the purpose of qualifying the principal for medical assistance or the limited casualty program for the medically needy.

Sec. 24. RCW 82.45.010 and 2010 1st sp.s. c 23 s 207 are each amended to read as follows:

(1) As used in this chapter, the term "sale" has its ordinary meaning and includes any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person at the purchaser's direction, and title to the property is retained by the vendor as security for the payment of the purchase price. The term also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

(2)(a) The term "sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration.

(b) For the sole purpose of determining whether, pursuant to the exercise of an option, a controlling interest was transferred or acquired within a twelve-month period, the date that the option agreement was executed is the date on which the transfer or acquisition of the controlling interest is deemed to occur. For all other purposes under this chapter, the date upon which the option is

exercised is the date of the transfer or acquisition of the controlling interest.

(c) For purposes of this subsection, all acquisitions of persons acting in concert must be aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place. The department must adopt standards by rule to determine when persons are acting in concert. In adopting a rule for this purpose, the department must consider the following:

(i) Persons must be treated as acting in concert when they have a relationship with each other such that one person influences or controls the actions of another through common ownership; and

(ii) When persons are not commonly owned or controlled, they must be treated as acting in concert only when the unity with which the purchasers have negotiated and will consummate the transfer of ownership interests supports a finding that they are acting as a single entity. If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, then the acquisitions are considered separate acquisitions.

(3) The term "sale" does not include:

(a) A transfer by gift, devise, or inheritance.

(b) A transfer by transfer on death deed, to the extent that it is not in satisfaction of a contractual obligation of the decedent owed to the recipient of the property.

(c) A transfer of any leasehold interest other than of the type mentioned above.

~~((e))~~ (d) A cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, or deed in lieu of foreclosure of a mortgage.

~~((d))~~ (e) The partition of property by tenants in common by agreement or as the result of a court decree.

~~((e))~~ (f) The assignment of property or interest in property from one spouse or one domestic partner to the other spouse or other domestic partner in accordance with the terms of a decree of dissolution of marriage or state registered domestic partnership or in fulfillment of a property settlement agreement.

~~((f))~~ (g) The assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved.

~~((g))~~ (h) Transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation.

~~((h))~~ (i) A mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof.

~~((i))~~ (j) Any transfer or conveyance made pursuant to a deed of trust or an order of sale by the court in any mortgage, deed of trust, or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage or deed of trust.

~~((j))~~ (k) A conveyance to the federal housing administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration.

~~((k))~~ (l) A transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into prior to the date this tax was first imposed.

~~((l))~~ (m) The sale of any grave or lot in an established cemetery.

~~((m))~~ (n) A sale by the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

~~((n))~~ (o) A sale to a regional transit authority or public corporation under RCW 81.112.320 under a sale/leaseback agreement under RCW 81.112.300.

~~((o))~~ (p) A transfer of real property, however effected, if it consists of a mere change in identity or form of ownership of an entity where there is no change in the beneficial ownership. These include transfers to a corporation or partnership which is wholly owned by the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner. However, if thereafter such transferee corporation or partnership voluntarily transfers such real property, or such transferor, spouse or domestic partner, or children of the transferor or the transferor's spouse or domestic partner voluntarily transfer stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than (i) the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, (ii) a trust having the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner as the only beneficiaries at the time of the transfer to the trust, or (iii) a corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer has not been paid within sixty days of becoming due, excise taxes become due and payable on the original transfer as otherwise provided by law.

~~((p))~~ (q)(i) A transfer that for federal income tax purposes does not involve the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization, including but not limited to nonrecognition of gain or loss because of application of 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal revenue code of 1986, as amended.

(ii) However, the transfer described in ~~((p))~~ (q)(i) of this subsection cannot be preceded or followed within a twelve-month period by another transfer or series of transfers, that, when combined with the otherwise exempt transfer or transfers described in ~~((p))~~ (q)(i) of this subsection, results in the transfer of a controlling interest in the entity for valuable consideration, and in which one or more persons previously holding a controlling interest in the entity receive cash or property in exchange for any interest the person or persons acting in concert hold in the entity. This subsection (3)~~((p))~~ (q)(ii) does not apply to that part of the transfer involving property received that is the real property interest that the person or persons originally contributed to the entity or when one or more persons who did not contribute real property or belong to the entity at a time when real property was purchased receive cash or personal property in exchange for that person or persons' interest in the entity. The real estate excise tax under this subsection (3)~~((p))~~ (q)(ii) is imposed upon the person or persons who previously held a controlling interest in the entity.

~~((q))~~ (r) A qualified sale of a manufactured/mobile home community, as defined in RCW 59.20.030, that takes place on or after June 12, 2008, but before December 31, 2018.

Sec. 25. RCW 82.45.197 and 2008 c 269 s 1 are each amended to read as follows:

In order to receive an exemption from the tax in this chapter on real property transferred as a result of inheritance under RCW 82.45.010(3)(a), the following documentation must be provided:

(1) If the property is being transferred under the terms of a community property agreement, a copy of the recorded agreement and a certified copy of the death certificate;

(2) If the property is being transferred under the terms of a trust instrument, a certified copy of the death certificate and a copy of the trust instrument showing the authority of the grantor;

(3) If the property is being transferred under the terms of a probated will, a certified copy of the letters testamentary or in the case of intestate administration, a certified copy of the letters of

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administration showing that the grantor is the court-appointed executor, executrix, or administrator, and a certified copy of the death certificate;

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(4) In the case of joint tenants with right of survivorship and remainder interests, a certified copy of the death certificate is recorded to perfect title;

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(5) If the property is being transferred pursuant to a court order, a certified copy of the court order requiring the transfer, and confirming that the grantor is required to do so under the terms of the order; ~~((or))~~

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(6) If the community property interest of the decedent is being transferred to a surviving spouse or surviving domestic partner absent the documentation set forth in subsections (1) through (5) of this section, a certified copy of the death certificate and a signed affidavit from the surviving spouse or surviving domestic partner affirming that he or she is the sole and rightful heir to the property;

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or
(7) If the property is being transferred pursuant to a transfer on death deed, a certified copy of the death certificate is recorded to perfect title.

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Sec. 26. RCW 82.45.150 and 1996 c 149 s 6 are each amended to read as follows:

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All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.050, 82.32.140, 82.32.270, and 82.32.090 (1) and ~~((8))~~ (10), applies to the tax imposed by this chapter, in addition to any other provisions of law for the payment and enforcement of the tax imposed by this chapter. The department of revenue ~~((shall))~~ must by rule provide for the effective administration of this chapter. The rules ~~((shall))~~ must prescribe and furnish a real estate excise tax affidavit form verified by both the seller and the buyer, or agents of each, to be used by each county, or the department, as the case may be, in the collection of the tax imposed by this chapter, except that an affidavit given in connection with grant of an easement or right-of-way to a gas, electrical, or telecommunications company, as defined in RCW 80.04.010, or to a public utility district or cooperative that distributes electricity, need be verified only on behalf of the company, district, or cooperative and except that a transfer on death deed need be verified only on behalf of the transferor. The department of revenue ~~((shall))~~ must annually conduct audits of transactions and affidavits filed under this chapter.

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Sec. 27. RCW 84.33.140 and 2013 2nd sp.s. c 11 s 13 are each amended to read as follows:

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(1) When land has been designated as forest land under RCW 84.33.130, a notation of the designation must be made each year upon the assessment and tax rolls. A copy of the notice of approval together with the legal description or assessor's parcel numbers for the land must, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded.

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(2) In preparing the assessment roll as of January 1, 2002, for taxes payable in 2003 and each January 1st thereafter, the assessor must list each parcel of designated forest land at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (3) of this section. The assessor must compute the assessed value of the land using the same assessment ratio applied generally in computing the assessed value of other property in the county. Values for the several grades of bare forest land are as follows:

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(3) On or before December 31, 2001, the department must adjust by rule under chapter 34.05 RCW, the forest land values contained in subsection (2) of this section in accordance with this subsection, and must certify the adjusted values to the assessor who will use these values in preparing the assessment roll as of January 1, 2002. For the adjustment to be made on or before December 31, 2001, for use in the 2002 assessment year, the department must:

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
	1	\$234
1	2	229

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1996, and June 30, 2001, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1995, and June 30, 2000, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(c) Adjust the forest land values contained in subsection (2) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

(4) For the adjustments to be made on or before December 31, 2002, and each succeeding year thereafter, the same procedure described in subsection (3) of this section must be followed using harvester excise tax returns filed under RCW 84.33.074. However, this adjustment must be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values must be successively one year more recent.

(5) Land graded, assessed, and valued as forest land must continue to be so graded, assessed, and valued until removal of designation by the assessor upon the occurrence of any of the following:

(a) Receipt of notice from the owner to remove the designation;

(b) Sale or transfer to an ownership making the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of forest land designation continuance, except transfer to an owner who is an heir or devisee of a deceased owner or transfer by a transfer on death deed, does not, by itself, result in removal of designation. The signed notice of continuance must be attached to the real estate excise tax affidavit provided for in RCW 82.45.150. The notice of continuance must be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated under subsection (11) of this section are due and payable by the seller or transferor at time of sale. The auditor may not accept an instrument of conveyance regarding designated forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (11) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that:

(i) The land is no longer primarily devoted to and used for growing and harvesting timber. However, land may not be removed from designation if a governmental agency, organization, or other recipient identified in subsection (13) or (14) of this section as exempt from the payment of compensating tax has manifested its intent in writing or by other official action to acquire a property interest in the designated forest land by means of a transaction that qualifies for an exemption under subsection (13) or (14) of this section. The governmental agency, organization, or recipient must annually provide the assessor of the county in which the land is located reasonable evidence in writing of the intent to acquire the designated land as long as the intent continues or within sixty days of a request by the assessor. The assessor may not request this evidence more than once in a calendar year;

(ii) The owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW; or

(iii) Restocking has not occurred to the extent or within the time specified in the application for designation of such land.

(6) Land may not be removed from designation if there is a governmental restriction that prohibits, in whole or in part, the owner from harvesting timber from the owner's designated forest land. If only a portion of the parcel is impacted by governmental restrictions of this nature, the restrictions cannot be used as a basis to remove the remainder of the forest land from designation under this chapter. For the purposes of this section, "governmental restrictions" includes: (a) Any law, regulation, rule, ordinance, program, or other action adopted or taken by a federal, state, county, city, or other governmental entity; or (b) the land's zoning or its presence within an urban growth area designated under RCW 36.70A.110.

(7) The assessor has the option of requiring an owner of forest land to file a timber management plan with the assessor upon the occurrence of one of the following:

(a) An application for designation as forest land is submitted; or

(b) Designated forest land is sold or transferred and a notice of continuance, described in subsection (5)(c) of this section, is signed.

(8) If land is removed from designation because of any of the circumstances listed in subsection (5)(a) through (c) of this section, the removal applies only to the land affected. If land is removed from designation because of subsection (5)(d) of this section, the removal applies only to the actual area of land that is no longer primarily devoted to the growing and harvesting of timber, without regard to any other land that may have been included in the application and approved for designation, as long as the remaining designated forest land meets the definition of forest land contained in RCW 84.33.035.

(9) Within thirty days after the removal of designation as forest land, the assessor must notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038.

(10) Unless the removal is reversed on appeal a copy of the notice of removal with a notation of the action, if any, upon appeal, together with the legal description or assessor's parcel numbers for the land removed from designation must, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded and a notation of removal from designation must immediately be made upon the assessment and tax rolls. The assessor must revalue the land to be removed with reference to its true and fair value as of January 1st of the year of removal from designation. Both the assessed value before and after the removal of designation must be listed. Taxes based on the value of the land as forest land are assessed and payable up until the date of removal and taxes based on the true and fair value of the land are assessed and payable from the date of removal from designation.

(11) Except as provided in subsection (5)(c), (13), or (14) of this section, a compensating tax is imposed on land removed from designation as forest land. The compensating tax is due and payable to the treasurer thirty days after the owner is notified of the amount of this tax. As soon as possible after the land is removed from designation, the assessor must compute the amount of compensating tax and mail a notice to the owner of the amount of compensating tax owed and the date on which payment of this tax is due. The amount of compensating tax is equal to the difference between the amount of tax last levied on the land as designated forest land and an amount equal to the new assessed value of the land multiplied by the dollar rate of the last levy extended against the land, multiplied by a number, in no event greater than nine, equal to the number of years for which the land was designated as forest land, plus compensating taxes on the land at forest land values up until the date of removal and the prorated taxes on the land at true

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and fair value from the date of removal to the end of the current tax year.

(12) Compensating tax, together with applicable interest thereon, becomes a lien on the land, which attaches at the time the land is removed from designation as forest land and has priority and must be fully paid and satisfied before any 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 as provided in RCW 84.64.050. Any compensating tax unpaid on its due date will thereupon become delinquent. From the date of delinquency until paid, interest is charged at the same rate applied by law to delinquent ad valorem property taxes.

(13) The compensating tax specified in subsection (11) of this section may not be imposed if the removal of designation under subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) A donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections, or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW or approved for state natural resources conservation area purposes as defined in chapter 79.71 RCW, or for acquisition and management as a community forest trust as defined in chapter 79.155 RCW. At such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (11) of this section is imposed upon the current owner;

(d) The sale or transfer of fee title to the parks and recreation commission for park and recreation purposes;

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of the land;

(f) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(g) The creation, sale, or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;

(h) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under this chapter, or classified under chapter 84.34 RCW continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (13)(h); or

(i)(i) The discovery that the land was designated under this chapter in error through no fault of the owner. For purposes of this subsection (13)(i), "fault" means a knowingly false or misleading statement, or other act or omission not in good faith, that contributed to the approval of designation under this chapter or the failure of the assessor to remove the land from designation under this chapter.

(ii) For purposes of this subsection (13), the discovery that land was designated under this chapter in error through no fault of the owner is not the sole reason for removal of designation under subsection (5) of this section if an independent basis for removal

exists. An example of an independent basis for removal includes the land no longer being devoted to and used for growing and harvesting timber.

(14) In a county with a population of more than six hundred thousand inhabitants or in a county with a population of at least two hundred forty-five thousand inhabitants that borders Puget Sound as defined in RCW 90.71.010, the compensating tax specified in subsection (11) of this section may not be imposed if the removal of designation as forest land under subsection (5) of this section resulted solely from:

(a) An action described in subsection (13) of this section; or

(b) A transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the property interest is not used for the purposes enumerated, the compensating tax is imposed upon the current owner.

Sec. 28. RCW 84.34.108 and 2009 c 513 s 2, 2009 c 354 s 3, 2009 c 255 s 2, and 2009 c 246 s 3 are each reenacted and amended to read as follows:

(1) When land has once been classified under this chapter, a notation of the classification ~~((shall))~~ must be made each year upon the assessment and tax rolls and the land ~~((shall))~~ must be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of the classification by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of the classification;

(b) Sale or transfer to an ownership, except a transfer that resulted from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the property for the same use as before, making all or a portion of the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of classification continuance, except transfer to an owner who is an heir or devisee of a deceased owner ~~((shall))~~ or transfer by a transfer on death deed does not, by itself, result in removal of classification. The notice of continuance ~~((shall))~~ must be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes calculated pursuant to subsection (4) of this section ~~((shall))~~ become due and payable by the seller or transferor at time of sale. The auditor ~~((shall))~~ may not accept an instrument of conveyance regarding classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (4) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d)(i) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of the land no longer meets the criteria for classification under this chapter. The criteria for classification pursuant to this chapter continue to apply after classification has been granted.

(ii) The granting authority, upon request of an assessor, ~~((shall))~~ must provide reasonable assistance to the assessor in making a determination whether the land continues to meet the qualifications of RCW 84.34.020 (1) or (3). The assistance ~~((shall))~~ must be provided within thirty days of receipt of the request.

(2) Land may not be removed from classification because of:

(a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(3) Within thirty days after the removal of all or a portion of the land from current use classification under subsection (1) of this section, the assessor (~~shall~~) must notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038. The removal notice must explain the steps needed to appeal the removal decision, including when a notice of appeal must be filed, where the forms may be obtained, and how to contact the county board of equalization.

(4) Unless the removal is reversed on appeal, the assessor (~~shall~~) must revalue the affected land with reference to its true and fair value on January 1st of the year of removal from classification. Both the assessed valuation before and after the removal of classification (~~shall~~) must be listed and taxes (~~shall~~) must be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (6) of this section, an additional tax, applicable interest, and penalty (~~shall~~) must be imposed which (~~shall be~~) are due and payable to the treasurer thirty days after the owner is notified of the amount of the additional tax. As soon as possible, the assessor (~~shall~~) must compute the amount of additional tax, applicable interest, and penalty and the treasurer (~~shall~~) must mail notice to the owner of the amount thereof and the date on which payment is due. The amount of the additional tax, applicable interest, and penalty (~~shall~~) must be determined as follows:

(a) The amount of additional tax (~~shall be~~) is equal to the difference between the property tax paid as "open space land," "farm and agricultural land," or "timber land" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified;

(b) The amount of applicable interest (~~shall be~~) is equal to the interest upon the amounts of the additional tax paid 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 land had been assessed at a value without regard to this chapter;

(c) The amount of the penalty (~~shall be~~) is as provided in RCW 84.34.080. The penalty (~~shall~~) may not be imposed if the removal satisfies the conditions of RCW 84.34.070.

(5) Additional tax, applicable interest, and penalty (~~shall~~) become a lien on the land (~~which shall attach~~) that attaches at the time the land is removed from classification under this chapter and (~~shall~~) have priority to and (~~shall~~) must be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which the land may become charged or liable. This 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 as provided in RCW 84.64.050. Any additional tax unpaid on its due date (~~shall~~) will thereupon become delinquent. From the date of delinquency until paid, interest (~~shall~~) must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(6) The additional tax, applicable interest, and penalty specified in subsection (4) of this section (~~shall~~) may not be imposed if the removal of classification pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other land located within the state of Washington;

(b)(i) A taking through the exercise of the power of eminent domain, or (ii) sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power, said

entity having manifested its intent in writing or by other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of the property;

(d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of the land;

(e) Transfer of land to a church when the land would qualify for exemption pursuant to RCW 84.36.020;

(f) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections. At such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (4) of this section (~~shall~~) must be imposed;

(g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(f);

(h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(j) The creation, sale, or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;

(k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under chapter 84.33 RCW, or classified under this chapter continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (6)(k); or

(l)(i) The discovery that the land was classified under this chapter in error through no fault of the owner. For purposes of this subsection (6)(l), "fault" means a knowingly false or misleading statement, or other act or omission not in good faith, that contributed to the approval of classification under this chapter or the failure of the assessor to remove the land from classification under this chapter.

(ii) For purposes of this subsection (6), the discovery that land was classified under this chapter in error through no fault of the owner is not the sole reason for removal of classification pursuant to subsection (1) of this section if an independent basis for removal exists. Examples of an independent basis for removal include the owner changing the use of the land or failing to meet any applicable income criteria required for classification under this chapter.

NEW SECTION. Sec. 29. Section 23 of this act takes effect if the Washington uniform power of attorney act (House/Senate Bill No. . . .) is not enacted during the 2014 regular legislative session.

NEW SECTION. Sec. 30. 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. 31. Sections 1 through 17 of this act constitute a new chapter in Title 64 RCW."

Senator Pedersen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Law & Justice to Second Engrossed Substitute House Bill No. 1117.

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

MOTION

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

On page 1, line 2 of the title, after "death;" strike the remainder of the title and insert "amending RCW 11.07.010, 11.11.010, 11.18.200, 11.86.011, 11.94.050, 82.45.010, 82.45.197, 82.45.150, and 84.33.140; reenacting and amending RCW 11.02.005 and 84.34.108; adding a new chapter to Title 64 RCW; and providing a contingent effective date."

MOTION

On motion of Senator Pedersen, the rules were suspended, Second Engrossed Substitute House Bill No. 1117 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pedersen and Padden spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute House Bill No. 1117 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute House Bill No. 1117 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dandel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1117 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2708, by Representatives Tarleton, Short, DeBolt, Fey, Freeman, Hudgins, Lytton, Smith, Morrell, Ortiz-Self, Springer, Pollet and Muri

Concerning a qualified alternative energy resource.

The measure was read the second time.

MOTION

On motion of Senator Ericksen, the rules were suspended, House Bill No. 2708 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ericksen and Lias spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2708.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2708 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dandel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

HOUSE BILL NO. 2708, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2099, by Representatives Vick, Blake, Buys, Van De Wege, Orcutt, Haler, Ross and Fagan

Extending the expiration date for reporting requirements on timber purchases.

The measure was read the second time.

MOTION

On motion of Senator Pearson, the rules were suspended, House Bill No. 2099 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pearson spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2099.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2099 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dandel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

HOUSE BILL NO. 2099, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2454, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake, Buys, Lytton and Smith)

Developing a water quality trading program in Washington.

The measure was read the second time.

MOTION

On motion of Senator Hatfield, the rules were suspended, Substitute House Bill No. 2454 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hatfield, McCoy and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2454.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2454 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yeas: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SUBSTITUTE HOUSE BILL NO. 2454, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2251, by House Committee on Appropriations (originally sponsored by Representatives Wilcox, Blake, Orcutt and Clibborn)

Concerning fish barrier removals.

The measure was read the second time.

MOTION

Senator Pearson moved that the following committee striking amendment by the Committee on Natural Resources & Parks be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 77.55.181 and 2010 c 210 s 29 are each amended to read as follows:

(1)(a) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under ~~((a) and (b) of)~~ this ~~(subsection: (a) A fish habitat enhancement project)~~ section and must be a project to accomplish one or more of the following tasks:

(i) Elimination of human-made or caused fish passage barriers, including culvert repair and replacement;

(ii) Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(iii) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

(b) The department shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be

evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety~~((and))~~.

~~((b))~~ (c) A fish habitat enhancement project must be approved in one of the following ways in order to receive the permit review and approval process created in this section:

(i) By the department pursuant to chapter 77.95 or 77.100 RCW;

(ii) By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

(iii) By the department as a department-sponsored fish habitat enhancement or restoration project;

(iv) Through the review and approval process for the jobs for the environment program;

(v) Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States fish and wildlife service and the natural resource conservation service;

(vi) Through a formal grant program established by the legislature or the department for fish habitat enhancement or restoration; ~~((and))~~

(vii) Through the department of transportation's environmental retrofit program as a stand-alone fish passage barrier correction project;

(viii) Through a local, state, or federally approved fish barrier removal grant program designed to assist local governments in implementing stand-alone fish passage barrier corrections;

(ix) By a city or county for a stand-alone fish passage barrier correction project funded by the city or county; and

(x) Through other formal review and approval processes established by the legislature.

(2) Fish habitat enhancement projects meeting the criteria of subsection (1) of this section are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of subsection (1) of this section and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030(2)(c).

(3)(a) A permit is required for projects that meet the criteria of subsection (1) of this section and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department and to each appropriate local government.

(b) Local governments shall accept the application as notice of the proposed project. The department shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts.

(c) Within forty-five days, the department shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit.

(d) If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

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~~((b))~~ (e) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may appeal the decision as provided in RCW 77.55.021 ~~((4))~~ (8).

(4) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of subsection (1) of this section and that are reviewed and approved according to the provisions of this section.

(5) No civil liability may be imposed by any court on the state or its officers and employees for any adverse impacts resulting from a fish enhancement project permitted by the department under the criteria of this section except upon proof of gross negligence or willful or wanton misconduct.

Sec. 2. RCW 77.95.180 and 2010 1st sp.s. c 7 s 83 are each amended to read as follows:

(1)(a) To maximize available state resources, the department and the department of transportation ~~((shall))~~ must work in partnership to identify ~~((cooperative))~~ and complete projects to eliminate fish passage barriers caused by state roads and highways.

(b) The partnership between the department and the department of transportation must be based on the principle of maximizing habitat recovery through a coordinated investment strategy that, to the maximum extent practical and allowable, prioritizes opportunities: To correct multiple fish barriers in whole streams rather than through individual, isolated projects; to coordinate with other entities sponsoring barrier removals, such as regional fisheries enhancement groups incorporated under this chapter, in a manner that achieves the greatest cost savings to all parties; and to correct barriers located furthest downstream in a stream system. Examples of this principle include:

(i) Coordinating with all relevant state agencies and local governments to maximize the habitat recovery value of the investments made by the state to correct fish passage barriers;

(ii) Maximizing the habitat recovery value of investments made by public and private forest landowners through the road maintenance and abandonment planning process outlined in the forest practices rules, as that term is defined in RCW 76.09.020;

(iii) Recognizing that many of the barriers owned by the state are located in the same stream systems as barriers that are owned by cities and counties with limited financial resources for correction and that state-local partnership opportunities should be sought to address these barriers; and

(iv) Recognizing the need to continue investments in the family forest fish passage program created pursuant to RCW 76.13.150 and other efforts to address fish passage barriers owned by private parties that are in the same stream systems as barriers owned by public entities.

(2) The department ~~((of transportation))~~ shall also provide engineering and other technical services to assist ~~((regional fisheries enhancement groups))~~ nonstate barrier owners with fish passage barrier removal projects, provided that the barrier removal projects have been identified as a priority by the department ~~((of fish and wildlife))~~ and the department ~~((of transportation))~~ has received an appropriation to continue ~~((the))~~ that component of a fish barrier removal program.

(3) Nothing in this section is intended to:

(a) Alter the process and prioritization methods used in the implementation of the forest practices rules, as that term is defined in RCW 76.09.020, or the family forest fish passage program, created pursuant to RCW 76.13.150, that provides public cost assistance to small forest landowners associated with the road maintenance and abandonment processes; or

(b) Prohibit or delay fish barrier projects undertaken by the department of transportation or another state agency that are a component of an overall transportation improvement project or that are being undertaken as a direct result of state law, federal law, or a

court order. However, the department of transportation or another state agency is required to work in partnership with the fish passage barrier removal board created in RCW 77.95.160 to ensure that the scheduling, staging, and implementation of these projects are, to maximum extent practicable, consistent with the coordinated and prioritized approach adopted by the fish passage barrier removal board.

Sec. 3. RCW 77.95.170 and 1999 c 242 s 4 are each amended to read as follows:

(1) The department ~~((of transportation and the department of fish and wildlife))~~ may ~~((administer and))~~ coordinate with the recreation and conservation office in the administration of all state grant programs specifically designed to assist state agencies, ~~((local governments,))~~ private landowners, tribes, organizations, and volunteer groups in identifying and removing impediments to salmonid fish passage. The transportation improvement board may administer all grant programs specifically designed to assist cities, counties, and other units of local governments with fish passage barrier corrections associated with transportation projects. All grant programs must be administered and be consistent with the following:

(a) Salmonid-related corrective projects, inventory, assessment, and prioritization efforts;

(b) Salmonid projects subject to a competitive application process; and

(c) A minimum dollar match rate that is consistent with the funding authority's criteria. If no funding match is specified, a match amount of at least twenty-five percent per project is required. For local, private, and volunteer projects, in-kind contributions may be counted toward the match requirement.

(2) Priority shall be given to projects that ~~((immediately increase access to available and improved spawning and rearing habitat for depressed, threatened, and endangered stocks. Priority shall also be given to project applications that are coordinated with other efforts within a watershed))~~ match the principles provided in RCW 77.95.180.

(3) ~~((Except for projects administered by the transportation improvement board,))~~ All projects subject to this section shall be reviewed and approved by the fish passage barrier removal ~~((task force))~~ board created in RCW 77.95.160 or an alternative oversight committee designated by the state legislature.

(4) Other agencies that administer natural resource-based grant programs ~~((that may include fish passage barrier removal projects))~~ shall use fish passage selection criteria that are consistent with this section when those programs are addressing fish passage barrier removal projects.

(5)(a) The ~~((departments of transportation and fish and wildlife))~~ department shall establish a centralized database directory of all fish passage barrier information. The database directory must include, but is not limited to, existing fish passage inventories, fish passage projects, grant program applications, and other databases. These data must be used to coordinate and assist in habitat recovery and project mitigation projects.

(b) The department must develop a barrier inventory training program that qualifies participants to perform barrier inventories and develop data that enhance the centralized database. The department may decide the qualifications for participation. However, employees and volunteers of conservation districts and regional salmon recovery groups must be given priority consideration.

Sec. 4. RCW 77.95.160 and 2000 c 107 s 110 are each amended to read as follows:

(1) The department ~~((and the department of transportation))~~ shall ~~((convene))~~ maintain a fish passage barrier removal ~~((task force))~~ board. ~~((The task force shall consist of one representative~~

each from the department, the department of transportation, the department of ecology, tribes, cities, counties, a business organization, an environmental organization, regional fisheries enhancement groups, and other interested entities as deemed appropriate by the cochairs. The persons representing the department and the department of transportation shall serve as cochairs of the task force and shall appoint members to the task force. The task force shall make recommendations to expand the program in RCW 77.95.180)) The board must be composed of a representative from the department, the department of transportation, cities, counties, the governor's salmon recovery office, tribal governments, and the department of natural resources. The representative of the department must serve as chair of the board and may expand the membership of the board to representatives of other governments, stakeholders, and interested entities.

(2)(a) The duty of the board is to identify and expedite the removal of human-made or caused impediments to anadromous fish passage in the most efficient manner practical((. Program)) through the development of a coordinated approach and schedule that identifies and prioritizes the projects necessary to eliminate fish passage barriers caused by state and local roads and highways and barriers owned by private parties.

(b) The coordinated approach must address fish passage barrier removals in all areas of the state in a manner that is consistent with a recognition that scheduling and prioritization is necessary.

(c) The board must coordinate and mutually share information, when appropriate, with:

(i) Other fish passage correction programs, including local salmon recovery plan implementation efforts through the governor's salmon recovery office;

(ii) The applicable conservation districts when developing schedules and priorities within set geographic areas or counties; and

(iii) The recreation and conservation office to ensure that barrier removal methodologies are consistent with, and maximizing the value of, other salmon recovery efforts and habitat improvements that are not primarily based on the removal of barriers.

(d) Recommendations ((shall)) must include ((a)) proposed funding mechanisms and other necessary mechanisms and methodologies to coordinate ((and prioritize)) state, tribal, local, and volunteer barrier removal efforts within each water resource inventory area and satisfy the principles of RCW 77.95.180. To the degree practicable, the board must utilize the database created in RCW 77.95.170 and information on fish barriers developed by conservation districts to guide methodology development. The board may consider recommendations by interested entities from the private sector and regional fisheries enhancement groups.

(e) When developing a prioritization methodology under this section, the board shall consider:

(i) Projects benefiting depressed, threatened, and endangered stocks;

(ii) Projects providing access to available and high quality spawning and rearing habitat;

(iii) Correcting the lowest barriers within the stream first;

(iv) Whether an existing culvert is a full or partial barrier;

(v) Projects that are coordinated with other adjacent barrier removal projects; and

(vi) Projects that address replacement of infrastructure associated with flooding, erosion, or other environmental damage. ((A priority shall be given to projects that immediately increase access to available and improved spawning and rearing habitat for depressed, threatened, and endangered stocks. The department or the department of transportation may contract with cities and counties to assist in the identification and removal of impediments to anadromous fish passage.))

(f) The board may not make decisions on fish passage standards or categorize as impassible culverts or other infrastructure developments that have been deemed passable by the department.

NEW SECTION. Sec. 5. A new section is added to chapter 77.95 RCW to read as follows:

The department must implement RCW 77.95.160 and 77.95.180 within existing funds.

NEW SECTION. Sec. 6. A new section is added to chapter 77.95 RCW to read as follows:

The department may contract with cities and counties to assist in the identification and removal of impediments to fish passage.

NEW SECTION. Sec. 7. (1) The department of fish and wildlife must initiate contact with the United States army corps of engineers, the national oceanic and atmospheric administration, and, if necessary, the United States fish and wildlife service to explore the feasibility of bundling multiple transportation-related fish barrier removal projects under any available nationwide permits for the purpose of achieving streamlined federal permitting with a reduced processing time.

(2) The department of fish and wildlife must report back to the legislature, consistent with RCW 43.01.036, by October 31, 2016, summarizing the information gathered and any progress made towards using the bundling concept to streamline permitting for transportation-related fish barrier removal projects.

(3) This section must be implemented by the department of fish and wildlife using existing funds.

(4) This section expires June 30, 2017.

Sec. 8. RCW 19.27.490 and 2003 c 39 s 11 are each amended to read as follows:

A fish habitat enhancement project meeting the criteria of RCW ((77.55.290(4))) 77.55.181 is not subject to grading permits, inspections, or fees and shall be reviewed according to the provisions of RCW ((77.55.290)) 77.55.181.

Sec. 9. RCW 35.21.404 and 2003 c 39 s 14 are each amended to read as follows:

A city or town is not liable for adverse impacts resulting from a fish enhancement project that meets the criteria of RCW ((77.55.290)) 77.55.181 and has been permitted by the department of fish and wildlife.

Sec. 10. RCW 35.63.230 and 2003 c 39 s 15 are each amended to read as follows:

A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. A fish habitat enhancement project meeting the criteria of RCW ((77.55.290(4))) 77.55.181 shall be reviewed and approved according to the provisions of RCW ((77.55.290)) 77.55.181.

Sec. 11. RCW 35A.21.290 and 2003 c 39 s 16 are each amended to read as follows:

A code city is not liable for adverse impacts resulting from a fish enhancement project that meets the criteria of RCW ((77.55.290)) 77.55.181 and has been permitted by the department of fish and wildlife.

Sec. 12. RCW 35A.63.250 and 2003 c 39 s 17 are each amended to read as follows:

(1) A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510.

(2) A fish habitat enhancement project meeting the criteria of RCW ((77.55.290(4))) 77.55.181 shall be reviewed and approved according to the provisions of RCW ((77.55.290)) 77.55.181.

Sec. 13. RCW 36.70.982 and 2003 c 39 s 19 are each amended to read as follows:

A county is not liable for adverse impacts resulting from a fish enhancement project that meets the criteria of RCW ((77.55.290))

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77.55.181 and has been permitted by the department of fish and wildlife.

Sec. 14. RCW 36.70.992 and 2003 c 39 s 20 are each amended to read as follows:

(1) A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510.

(2) A fish habitat enhancement project meeting the criteria of RCW (~~(77.55.290(1))~~) 77.55.181 shall be reviewed and approved according to the provisions of RCW (~~(77.55.290)~~) 77.55.181.

Sec. 15. RCW 36.70A.460 and 2003 c 39 s 21 are each amended to read as follows:

(1) A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510.

(2) A fish habitat enhancement project meeting the criteria of RCW (~~(77.55.290(1))~~) 77.55.181 shall be reviewed and approved according to the provisions of RCW (~~(77.55.290)~~) 77.55.181.

Sec. 16. RCW 43.21C.0382 and 2003 c 39 s 23 are each amended to read as follows:

(1) Decisions pertaining to watershed restoration projects as defined in RCW 89.08.460 are not subject to the requirements of RCW 43.21C.030(2)(c).

(2) Decisions pertaining to fish habitat enhancement projects meeting the criteria of RCW (~~(77.55.290(1))~~) 77.55.181 and being reviewed and approved according to the provisions of RCW (~~(77.55.290)~~) 77.55.181 are not subject to the requirements of RCW 43.21C.030(2)(c)."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources & Parks to Second Substitute House Bill No. 2251.

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

MOTION

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

On page 1, line 1 of the title, after "removals;" strike the remainder of the title and insert "amending RCW 77.55.181, 77.95.180, 77.95.170, 77.95.160, 19.27.490, 35.21.404, 35.63.230, 35A.21.290, 35A.63.250, 36.70.982, 36.70.992, 36.70A.460, and 43.21C.0382; adding new sections to chapter 77.95 RCW; creating a new section; and providing an expiration date."

MOTION

On motion of Senator Pearson, the rules were suspended, Second Substitute House Bill No. 2251 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pearson and Liias spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2251 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2251 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dassel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SECOND SUBSTITUTE HOUSE BILL NO. 2251 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1888, by House Committee on Appropriations Subcommittee on General Government & Information Technology (originally sponsored by Representatives Shea, Hurst, Condotta, Holy, Taylor and Overstreet)

Regarding industrial hemp.

The measure was read the second time.

MOTION

Senator Hatfield moved that the following committee striking amendment by the Committee on Agriculture, Water & Rural Economic Development be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to investigate the various economic opportunities and industrial uses associated with industrial hemp cultivation and production as a farm product in the state of Washington. Through conducting a study, the legislature intends to assess whether the state's growing conditions and economic potential are favorable for the production of industrial hemp so that growers and other businesses in Washington's agricultural industry may take advantage of this market opportunity. Furthermore, should the study find favorable growing conditions, it is the intent of the legislature to encourage the development of an industrial hemp industry as a fecund addition to our state's cornucopia.

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

(1) "Agribusiness" means the processing of raw agricultural products, including but not limited to timber and industrial hemp, or the performance of value-added functions with regard to raw agricultural products.

(2) "Grower" means any person or business entity growing industrial hemp.

(3) "Hemp products" includes all products made from industrial hemp including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particle board, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation, if the seeds originate from industrial hemp varieties.

(4) "Industrial hemp" means all parts and varieties of the plant *Cannabis sativa*, cultivated or possessed by a grower, whether growing or not, that contain a tetrahydrocannabinol concentration of point three percent or less by weight, except that the THC concentration limit of point three percent may be exceeded for licensed industrial hemp seed research.

(5) "THC concentration" means percent of total THC, which is the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis sativa*, regardless of moisture content.

NEW SECTION. Sec. 3. Industrial hemp is an agricultural product that may be grown, produced, possessed, and commercially traded in the state.

NEW SECTION. Sec. 4. (1) Subject to receiving federal or private funds for this purpose, Washington State University shall study the feasibility and desirability of industrial hemp production in Washington state. In conducting the study, the university shall gather information from agricultural and scientific literature, consulting with experts and the public, and reviewing the best practices of other states and countries worldwide regarding the development of markets for industrial hemp and hemp products. The study must include an analysis of:

(a) The market economic conditions affecting the development of an industrial hemp industry in the state;

(b) The estimated value-added benefit that Washington's economy would reap from having a developed industrial hemp industry in the state;

(c) Whether Washington soils and growing conditions are appropriate for economically viable levels of industrial hemp production;

(d) The agronomy research being conducted worldwide relating to industrial hemp varieties, production, and use; and

(e) Other legislative acts, experiences, and outcomes around the world regarding industrial hemp production.

(2)(a) The university shall report its findings to the legislature by January 14, 2015.

(b) The report must include recommendations for any legislative actions necessary to encourage and support the development of an industrial hemp industry in the state of Washington.

(3) This section expires August 1, 2015.

NEW SECTION. Sec. 5. Sections 1 through 3 of this act constitute a new chapter in Title 15 RCW."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture, Water & Rural Economic Development to Second Substitute House Bill No. 1888.

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

MOTION

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

On page 1, line 1 of the title, after "hemp;" strike the remainder of the title and insert "adding a new chapter to Title 15 RCW; creating a new section; and providing an expiration date."

MOTION

On motion of Senator Hatfield, the rules were suspended, Second Substitute House Bill No. 1888 as amended was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

MOTION

On motion of Senator Fain, further consideration of Second Substitute House Bill No. 1888 as amended was deferred and the bill held its place on the third reading calendar.

SECOND READING

ENGROSSED HOUSE BILL NO. 2789, by Representatives Taylor, Goodman, Shea, Morris, Smith, Walkinshaw, Overstreet, Condotta, Moscoso, Ryu, Short and Scott

Concerning technology-enhanced government surveillance.

The measure was read the second time.

MOTION

Senator Padden moved that the following committee striking amendment by the Committee on Law & Justice be not adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that technological advances have provided new, unique equipment that may be utilized for surveillance purposes. These technological advances often outpace statutory protections and can lead to inconsistent or contradictory interpretations between jurisdictions. The legislature finds that regardless of application or size, the use of these extraordinary surveillance technologies, without public debate or clear legal authority, creates uncertainty for citizens and agencies throughout Washington state. The legislature finds that extraordinary surveillance technologies do present a substantial privacy risk potentially contrary to the strong privacy protections enshrined in Article I, section 7 of the Washington state Constitution that reads "No person shall be disturbed in his private affairs, or his home invaded, without authority of law." The legislature further finds that the lack of clear statutory authority for the use of extraordinary surveillance technologies may increase liability to state and local jurisdictions. It is the intent of the legislature to provide clear standards for the lawful use of extraordinary surveillance technologies by state and local jurisdictions.

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

(1)(a) "Agency" means the state of Washington, its agencies, and political subdivisions, except the Washington national guard in Title 32 U.S.C. status.

(b) "Agency" also includes any entity or individual, whether public or private, with which any of the entities identified in (a) of this subsection has entered into a contractual relationship or any other type of relationship, with or without consideration, for the operation of an extraordinary sensing device that acquires, collects, or indexes personal information to accomplish an agency function.

(2) "Court of competent jurisdiction" means any district court of the United States, or a court of general jurisdiction authorized by the state of Washington to issue search warrants.

(3) "Extraordinary sensing device" means a sensing device attached to an unmanned aircraft system.

(4) "Governing body" means the council, commission, board, or other controlling body of an agency in which legislative powers are vested, except that for a state agency for which there is no governing body other than the state legislature, "governing body" means the chief executive officer responsible for the governance of the agency.

(5) "Personal information" means all information that:

(a) Describes, locates, or indexes anything about a person including, but not limited to:

(i) His or her social security number, driver's license number, agency-issued identification number, student identification number, real or personal property holdings derived from tax returns, and the person's education, financial transactions, medical history, ancestry, religion, political ideology, or criminal or employment record; or

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(ii) Intellectual property, trade secrets, proprietary information, or operational information;

(b) Affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such person; and the record of the person's presence, registration, or membership in an organization or activity, or admission to an institution; or

(c) Indexes anything about a person including, but not limited to, his or her activities, behaviors, pursuits, conduct, interests, movements, occupations, or associations.

(6)(a) "Sensing device" means a device capable of remotely acquiring personal information from its surroundings, using any frequency of the electromagnetic spectrum, or a sound detecting system.

(b) "Sensing device" does not include equipment whose sole function is to provide information directly necessary for safe air navigation or operation of a vehicle.

(7) "Unmanned aircraft system" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft, together with associated elements, including communication links and components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system.

NEW SECTION. Sec. 3. Except as otherwise specifically authorized in this subchapter, it is unlawful for an agency to operate an extraordinary sensing device or disclose personal information about any person acquired through the operation of an extraordinary sensing device.

NEW SECTION. Sec. 4. (1) No state agency or organization having jurisdiction over criminal law enforcement or regulatory violations including, but not limited to, the Washington state patrol, shall procure an extraordinary sensing device without the explicit approval of the legislature, given for that specific extraordinary sensing device to be used for a specific purpose.

(2) No local agency having jurisdiction over criminal law enforcement or regulatory violations shall procure an extraordinary sensing device without the explicit approval of the governing body of such locality, given for that specific extraordinary sensing device to be used for a specific purpose.

NEW SECTION. Sec. 5. The governing body for each agency must develop and make publicly available, including on the agency web site, written policies and procedures for the use of any extraordinary sensing device procured, and provide notice and opportunity for public comment prior to adoption of the written policies and procedures.

NEW SECTION. Sec. 6. All operations of an extraordinary sensing device, by an agency, or disclosure of personal information about any person acquired through the operation of an extraordinary sensing device, by an agency, must be conducted in such a way as to minimize the collection and disclosure of personal information not authorized under this subchapter.

NEW SECTION. Sec. 7. (1) An extraordinary sensing device may be operated and personal information from such operation disclosed, if the operation and collection of personal information is pursuant to a search warrant issued by a court of competent jurisdiction as provided in this section, and the operation, collection, and disclosure are compliant with the provisions of this chapter.

(2) Each petition for a search warrant from a judicial officer to permit the use of an extraordinary sensing device and personal information collected from such operation must be made in writing, upon oath or affirmation, to a judicial officer in a court of competent jurisdiction for the geographic area in which an extraordinary sensing device is to be operated or where there is probable cause to believe the offense for which the extraordinary sensing device is

sought has been committed, is being committed, or will be committed.

(3) The law enforcement officer shall submit an affidavit that includes:

(a) The identity of the applicant and the identity of the agency conducting the investigation;

(b) The identity of the individual, if known, and area for which use of the extraordinary sensing device is being sought;

(c) Specific and articulable facts demonstrating probable cause to believe that there has been, is, or will be criminal activity and that the operation of the extraordinary sensing device will uncover evidence of such activity or facts to support the finding that there is probable cause for issuance of a search warrant pursuant to applicable requirements; and

(d) A statement that other methods of data collection have been investigated and found to be either cost-prohibitive or pose an unacceptable safety risk to a law enforcement officer or to the public.

(4) If the judicial officer finds, based on the affidavit submitted, there is probable cause to believe a crime has been committed, is being committed, or will be committed and there is probable cause to believe the personal information likely to be obtained from the use of the extraordinary sensing device will be evidence of the commission of such offense, the judicial officer may issue a search warrant authorizing the use of the extraordinary sensing device. The search warrant must authorize the collection of personal information contained in or obtained from the extraordinary sensing device.

(5) Warrants may not be issued for a period greater than ten days. Extensions may be granted, but no longer than the authorizing judicial officer deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days.

(6) Within ten days of the execution of a search warrant, the officer executing the warrant must serve a copy of the warrant upon the target of the warrant, except if notice is delayed pursuant to section 8 of this act.

NEW SECTION. Sec. 8. (1) A governmental entity acting under this section may, when a warrant is sought, include in the petition a request, which the court shall grant, for an order delaying the notification required under section 7(6) of this act for a period not to exceed ninety days if the court determines that there is a reason to believe that notification of the existence of the warrant may have an adverse result.

(2) An adverse result for the purposes of this section is:

(a) Placing the life or physical safety of an individual in danger;

(b) Causing a person to flee from prosecution;

(c) Causing the destruction of or tampering with evidence;

(d) Causing the intimidation of potential witnesses; or

(e) Jeopardizing an investigation or unduly delaying a trial.

(3) The governmental entity shall maintain a copy of certification.

(4) Extension of the delay of notification of up to ninety days each may be granted by the court upon application or by certification by a governmental entity.

(5) Upon expiration of the period of delay of notification under subsection (2) or (4) of this section, the governmental entity shall serve a copy of the warrant upon, or deliver it by registered or first-class mail to, the target of the warrant, together with notice that:

(a) States with reasonable specificity the nature of the law enforcement inquiry; and

(b) Informs the target of the warrant: (i) That notification was delayed; (ii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and (iii) which provision of this section allowed such delay.

NEW SECTION. Sec. 9. (1) It is lawful under this section for any law enforcement officer or other public official to operate an extraordinary sensing device and disclose personal information from such operation if the officer reasonably determines that an emergency situation exists that involves criminal activity and presents immediate danger of death or serious physical injury to any person and:

(a) Requires operation of an extraordinary sensing device before a warrant authorizing such interception can, with due diligence, be obtained;

(b) There are grounds upon which such a warrant could be entered to authorize such operation; and

(c) An application for a warrant providing for such operation is made within forty-eight hours after the operation has occurred or begins to occur.

(2) In the absence of a warrant, an operation of an extraordinary sensing device carried out under this section must immediately terminate when the personal information sought is obtained or when the application for the warrant is denied, whichever is earlier.

(3) In the event such application for approval is denied, the personal information obtained from the operation of a device must be treated as having been obtained in violation of this subchapter, except for purposes of section 15 of this act, and an inventory must be served on the person named in the application.

NEW SECTION. Sec. 10. (1) It is lawful under this section for a law enforcement officer, agency employee, or authorized agent to operate an extraordinary sensing device and disclose personal information from such operation if:

(a) An officer, employee, or agent reasonably determines that an emergency situation exists that:

(i) Does not involve criminal activity;

(ii) Presents immediate danger of death or serious physical injury to any person; and

(iii) Has characteristics such that operation of an extraordinary sensing device can reasonably reduce the danger of death or serious physical injury;

(b) An officer, employee, or agent reasonably determines that the operation does not intend to collect personal information and is unlikely to accidentally collect personal information, and such operation is not for purposes of regulatory enforcement. Allowable uses are limited to:

(i) Monitoring to discover, locate, observe, and prevent forest fires;

(ii) Monitoring an environmental or weather-related catastrophe or damage from such an event;

(iii) Surveying for wildlife management, habitat preservation, or environmental damage; and

(iv) Surveying for the assessment and evaluation of environmental or weather-related damage, erosion, flood, or contamination;

(c) The operation is part of a training exercise conducted on a military base and the extraordinary sensing device does not collect personal information on persons located outside the military base;

(d) The operation is for training, testing, or research purposes by an agency and does not collect personal information without specific written consent of any individual whose personal information is collected; or

(e) The operation is part of the response to an emergency or disaster for which the governor has proclaimed a state of emergency under RCW 43.06.010(12).

(2) Upon completion of the operation of an extraordinary sensing device pursuant to this section, any personal information obtained must be treated as information collected on an individual other than a target for purposes of section 14 of this act.

NEW SECTION. Sec. 11. Operation of an extraordinary sensing device by an agency is prohibited unless the agency has

affixed a unique identifier registration number assigned by the agency.

NEW SECTION. Sec. 12. Whenever any personal information from an extraordinary sensing device has been acquired, no part of such personal information and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state or a political subdivision thereof if the collection or disclosure of that personal information would be in violation of this subchapter.

NEW SECTION. Sec. 13. Personal information collected during the operation of an extraordinary sensing device authorized by and consistent with this subchapter may not be used, copied, or disclosed for any purpose after conclusion of the operation, unless there is probable cause that the personal information is evidence of criminal activity. Personal information must be deleted as soon as possible after there is no longer probable cause that the personal information is evidence of criminal activity; this must be within thirty days if the personal information was collected on the target of a warrant authorizing the operation of the extraordinary sensing device, and within ten days for other personal information collected incidentally to the operation of an extraordinary sensing device otherwise authorized by and consistent with this subchapter. There is a presumption that personal information is not evidence of criminal activity if that personal information is not used in a criminal prosecution within one year of collection.

NEW SECTION. Sec. 14. Any person who knowingly violates this subchapter is subject to legal action for damages, to be brought by any other person claiming that a violation of this subchapter has injured his or her business, his or her person, or his or her reputation. A person so injured is entitled to actual damages. In addition, the individual is entitled to reasonable attorneys' fees and other costs of litigation.

NEW SECTION. Sec. 15. Any use of an extraordinary sensing device must fully comply with all federal aviation administration requirements and guidelines. Compliance with the terms of this subchapter is mandatory and supplemental to compliance with federal aviation administration requirements and guidelines. Nothing in this chapter shall be construed to limit the state's ability to establish and operate a test range for the integration of unmanned aviation vehicles into the national airspace.

NEW SECTION. Sec. 16. (1) For a state agency having jurisdiction over criminal law enforcement including, but not limited to, the Washington state patrol, the agency must maintain records of each use of an extraordinary sensing device and, for any calendar year in which an agency has used an extraordinary sensing device, prepare an annual report including, at a minimum, the following:

(a) The number of uses of an extraordinary sensing device organized by types of incidents and types of justification for use;

(b) The number of crime investigations aided by the use and how the use was helpful to the investigation;

(c) The number of uses of an extraordinary sensing device for reasons other than criminal investigations and how the use was helpful;

(d) The frequency and type of data collected for individuals or areas other than targets;

(e) The total cost of the extraordinary sensing device;

(f) The dates when personal information and other data was deleted or destroyed in compliance with the act;

(g) The number of warrants requested, issued, and extended; and

(h) Additional information and analysis the governing body deems useful.

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(2) For a state agency other than that in subsection (1) of this section, the agency must maintain records of each use of an extraordinary sensing device and, for any calendar year in which an agency has used an extraordinary sensing device, prepare an annual report including, at a minimum, the following:

(a) The types of extraordinary sensing devices used, the purposes for which each type of extraordinary sensing device was used, the circumstances under which use was authorized, and the name of the officer or official who authorized the use;

(b) Whether deployment of the device was imperceptible to the public;

(c) The specific kinds of personal information that the extraordinary sensing device collected about individuals;

(d) The length of time for which any personal information collected by the extraordinary sensing device was retained;

(e) The specific steps taken to mitigate the impact on an individual's privacy, including protections against unauthorized use and disclosure and a data minimization protocol; and

(f) An individual point of contact for citizen complaints and concerns.

(3) For a local agency having jurisdiction over criminal law enforcement or regulatory violations, the agency must maintain records of each use of an extraordinary sensing device including, at a minimum, the following:

(a) The number of uses of an extraordinary sensing device organized by types of incidents and types of justification for use;

(b) The number of investigations aided by the use and how the use was helpful to the investigation;

(c) The number of uses of an extraordinary sensing device for reasons other than criminal investigations and how the use was helpful;

(d) The frequency and type of data collected for individuals or areas other than targets;

(e) The total cost of the extraordinary sensing device;

(f) The dates when personal information and other data was deleted or destroyed in compliance with the act;

(g) The number of warrants requested, issued, and extended; and

(h) Additional information and analysis the governing body deems useful.

(4) The annual reports required pursuant to subsections (1) and (2) of this section must be filed electronically to the office of financial management, who must compile the results and submit them electronically to the relevant committees of the legislature by September 1st of each year, beginning in 2015.

NEW SECTION. Sec. 17. Sections 2 through 16 of this act are each added to chapter 9.73 RCW and codified with the subchapter heading of "extraordinary sensing devices."

NEW SECTION. Sec. 18. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 1 of the title, after "surveillance;" strike the remainder of the title and insert "adding new sections to chapter 9.73 RCW; creating a new section; and prescribing penalties."

The President declared the question before the Senate to be the motion by Senator Padden to not adopt the committee striking amendment by the Committee on Law & Justice to Engrossed House Bill No. 2789.

The motion by Senator Padden carried and the committee striking amendment was not adopted by voice vote.

MOTION

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

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that technological advances have provided new, unique equipment that may be utilized for surveillance purposes. These technological advances often outpace statutory protections and can lead to inconsistent or contradictory interpretations between jurisdictions. The legislature finds that regardless of application or size, the use of these extraordinary surveillance technologies, without public debate or clear legal authority, creates uncertainty for citizens and agencies throughout Washington state. The legislature finds that extraordinary surveillance technologies do present a substantial privacy risk potentially contrary to the strong privacy protections enshrined in Article I, section 7 of the Washington state Constitution that reads "No person shall be disturbed in his private affairs, or his home invaded, without authority of law." The legislature further finds that the lack of clear statutory authority for the use of extraordinary surveillance technologies may increase liability to state and local jurisdictions. It is the intent of the legislature to provide clear standards for the lawful use of extraordinary surveillance technologies by state and local jurisdictions.

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

(1)(a) "Agency" means the state of Washington, its agencies, and political subdivisions, except the Washington national guard in Title 32 U.S.C. status.

(b) "Agency" also includes any entity or individual, whether public or private, with which any of the entities identified in (a) of this subsection has entered into a contractual relationship or any other type of relationship, with or without consideration, for the operation of an extraordinary sensing device that acquires, collects, or indexes personal information to accomplish an agency function.

(2) "Court of competent jurisdiction" means any district court of the United States, or a court of general jurisdiction authorized by the state of Washington to issue search warrants.

(3) "Extraordinary sensing device" means a sensing device attached to an unmanned aircraft system.

(4) "Governing body" means the council, commission, board, or other controlling body of an agency in which legislative powers are vested, except that for a state agency for which there is no governing body other than the state legislature, "governing body" means the chief executive officer responsible for the governance of the agency.

(5) "Personal information" means all information that:

(a) Describes, locates, or indexes anything about a person including, but not limited to:

(i) His or her social security number, driver's license number, agency-issued identification number, student identification number, real or personal property holdings derived from tax returns, and the person's education, financial transactions, medical history, ancestry, religion, political ideology, or criminal or employment record; or

(ii) Intellectual property, trade secrets, proprietary information, or operational information;

(b) Affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such person; and the record of the person's presence, registration, or membership in an organization or activity, or admission to an institution; or

(c) Indexes anything about a person including, but not limited to, his or her activities, behaviors, pursuits, conduct, interests, movements, occupations, or associations.

(6)(a) "Sensing device" means a device capable of remotely acquiring personal information from its surroundings, using any

frequency of the electromagnetic spectrum, or a sound detecting system.

(b) "Sensing device" does not include equipment whose sole function is to provide information directly necessary for safe air navigation or operation of a vehicle.

(7) "Unmanned aircraft system" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft, together with associated elements, including communication links and components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system.

NEW SECTION. Sec. 3. Except as otherwise specifically authorized in this subchapter, it is unlawful for an agency to operate an extraordinary sensing device or disclose personal information about any person acquired through the operation of an extraordinary sensing device.

NEW SECTION. Sec. 4. (1) No state agency or state organization having jurisdiction over criminal law enforcement or regulatory violations including, but not limited to, the Washington state patrol and the department of natural resources, shall purchase an extraordinary sensing device unless moneys are expressly appropriated by the legislature for this specific purpose.

(2) No local agency having jurisdiction over criminal law enforcement or regulatory violations shall procure an extraordinary sensing device without the explicit approval of the governing body of such locality, given for that specific extraordinary sensing device to be used for a specific purpose.

NEW SECTION. Sec. 5. The governing body for each agency must develop and make publicly available, including on the agency web site, written policies and procedures for the use of any extraordinary sensing device procured, and provide notice and opportunity for public comment prior to adoption of the written policies and procedures.

NEW SECTION. Sec. 6. All operations of an extraordinary sensing device, by an agency, or disclosure of personal information about any person acquired through the operation of an extraordinary sensing device, by an agency, must be conducted in such a way as to minimize the collection and disclosure of personal information not authorized under this subchapter.

NEW SECTION. Sec. 7. An extraordinary sensing device may be operated and personal information from such operation disclosed, if the operation and collection of personal information is pursuant to a search warrant issued by a court of competent jurisdiction.

NEW SECTION. Sec. 8. (1) A governmental entity acting under this section may, when a warrant is sought, include in the petition a request, which the court shall grant, for an order delaying the notification for a period not to exceed ninety days if the court determines that there is a reason to believe that notification of the existence of the warrant may have an adverse result.

(2) An adverse result for the purposes of this section is:

- (a) Placing the life or physical safety of an individual in danger;
- (b) Causing a person to flee from prosecution;
- (c) Causing the destruction of or tampering with evidence;
- (d) Causing the intimidation of potential witnesses; or
- (e) Jeopardizing an investigation or unduly delaying a trial.

(3) The governmental entity shall maintain a copy of certification.

(4) Extension of the delay of notification of up to ninety days each may be granted by the court upon application or by certification by a governmental entity.

(5) Upon expiration of the period of delay of notification under subsection (2) or (4) of this section, the governmental entity shall serve a copy of the warrant upon, or deliver it by registered or first-class mail to, the target of the warrant, together with notice that:

(a) States with reasonable specificity the nature of the law enforcement inquiry; and

(b) Informs the target of the warrant: (i) That notification was delayed; (ii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and (iii) which provision of this section allowed such delay.

NEW SECTION. Sec. 9. (1) It is lawful for a law enforcement officer, agency employee, or authorized agent to operate an extraordinary sensing device and disclose personal information from such operation if the officer, employee, or agent reasonably determines that an emergency situation exists that:

(a) Does not involve criminal activity, unless exigent circumstances exist;

(b) Presents immediate danger of death or serious physical injury to any person; and

(c) Has characteristics such that operation of an extraordinary sensing device can reasonably reduce the danger of death or serious physical injury.

(2) It is lawful for an officer, employee, or agent to operate an extraordinary sensing device if the officer, employee, or agent does not intend to collect personal information, the operation is unlikely to accidentally collect personal information, and the operation is not for purposes of regulatory enforcement. Allowable uses under this subsection are limited to:

(a) Monitoring to discover, locate, observe, and prevent forest fires;

(b) Monitoring an environmental or weather-related catastrophe or damage from such an event;

(c) Surveying for wildlife management, habitat preservation, or environmental damage; and

(d) Surveying for the assessment and evaluation of environmental or weather-related damage, erosion, flood, or contamination.

(3) It is lawful for an officer, employee, or agent to operate an extraordinary sensing device as part of a training exercise conducted on a military base if the extraordinary sensing device does not collect personal information on persons located outside the military base.

(4) It is lawful for an officer, employee, or agent to operate an extraordinary sensing device if the operation is for training, testing, or research purposes by an agency and does not collect personal information without the specific written consent of any individual whose personal information is collected.

(5) It is lawful for an officer, employee, or agent to operate an extraordinary sensing device if the operation is part of the response to an emergency or disaster for which the governor has proclaimed a state of emergency under RCW 43.06.010(12).

(6) Upon completion of the operation of an extraordinary sensing device pursuant to this section, any personal information obtained must be treated as information collected on an individual other than a target for purposes of section 13 of this act.

NEW SECTION. Sec. 10. Operation of an extraordinary sensing device by an agency is prohibited unless the agency has affixed a unique identifier registration number assigned by the agency.

NEW SECTION. Sec. 11. Whenever any personal information from an extraordinary sensing device has been acquired, no part of such personal information and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state or a political subdivision thereof if the collection or disclosure of that personal information would be in violation of this subchapter.

NEW SECTION. Sec. 12. (1) Personal information collected during the operation of an extraordinary sensing device

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authorized by and consistent with this subchapter may not be used, copied, or disclosed for any purpose after the conclusion of the operation, unless there is probable cause that the personal information is evidence of criminal activity. The personal information of the person who is the target of a warrant must be destroyed within thirty days after the applicable period of limitations for the criminal activity, as provided in RCW 9A.04.080, if the person has not been charged.

(2) The personal information of a person who is not the target of a warrant that is collected incidentally during the operation of an extraordinary sensing device must be destroyed within ten days after it is collected if it can be destroyed without destroying evidence that may be relevant to a pending criminal investigation or case.

(3) There is a presumption that personal information is not evidence of criminal activity if that personal information is not used in a criminal prosecution within one year of collection.

NEW SECTION. Sec. 13. Any person who knowingly violates this subchapter is subject to legal action for damages, to be brought by any other person claiming that a violation of this subchapter has injured his or her business, his or her person, or his or her reputation. A person so injured is entitled to actual damages. In addition, the individual is entitled to reasonable attorneys' fees and other costs of litigation.

NEW SECTION. Sec. 14. Any use of an extraordinary sensing device must fully comply with all federal aviation administration requirements and guidelines. Compliance with the terms of this subchapter is mandatory and supplemental to compliance with federal aviation administration requirements and guidelines. Nothing in this chapter shall be construed to limit the state's ability to establish and operate a test range for the integration of unmanned aviation vehicles into the national airspace.

NEW SECTION. Sec. 15. (1) For a state agency having jurisdiction over criminal law enforcement including, but not limited to, the Washington state patrol, the agency must maintain records of each use of an extraordinary sensing device and, for any calendar year in which an agency has used an extraordinary sensing device, prepare an annual report including, at a minimum, the following:

(a) The number of uses of an extraordinary sensing device organized by types of incidents and types of justification for use;

(b) The number of crime investigations aided by the use and how the use was helpful to the investigation;

(c) The number of uses of an extraordinary sensing device for reasons other than criminal investigations and how the use was helpful;

(d) The frequency and type of data collected for individuals or areas other than targets;

(e) The total cost of the extraordinary sensing device;

(f) The dates when personal information and other data was deleted or destroyed in compliance with the act;

(g) The number of warrants requested, issued, and extended; and

(h) Additional information and analysis the governing body deems useful.

(2) For a state agency other than that in subsection (1) of this section, the agency must maintain records of each use of an extraordinary sensing device and, for any calendar year in which an agency has used an extraordinary sensing device, prepare an annual report including, at a minimum, the following:

(a) The types of extraordinary sensing devices used, the purposes for which each type of extraordinary sensing device was used, the circumstances under which use was authorized, and the name of the officer or official who authorized the use;

(b) Whether deployment of the device was imperceptible to the public;

(c) The specific kinds of personal information that the extraordinary sensing device collected about individuals;

(d) The length of time for which any personal information collected by the extraordinary sensing device was retained;

(e) The specific steps taken to mitigate the impact on an individual's privacy, including protections against unauthorized use and disclosure and a data minimization protocol; and

(f) An individual point of contact for citizen complaints and concerns.

(3) For a local agency having jurisdiction over criminal law enforcement or regulatory violations, the agency must maintain records of each use of an extraordinary sensing device including, at a minimum, the following:

(a) The number of uses of an extraordinary sensing device organized by types of incidents and types of justification for use;

(b) The number of investigations aided by the use and how the use was helpful to the investigation;

(c) The number of uses of an extraordinary sensing device for reasons other than criminal investigations and how the use was helpful;

(d) The frequency and type of data collected for individuals or areas other than targets;

(e) The total cost of the extraordinary sensing device;

(f) The dates when personal information and other data was deleted or destroyed in compliance with the act;

(g) The number of warrants requested, issued, and extended; and

(h) Additional information and analysis the governing body deems useful.

(4) The annual reports required pursuant to subsections (1) and (2) of this section must be filed electronically to the office of financial management, who must compile the results and submit them electronically to the relevant committees of the legislature by September 1st of each year, beginning in 2015.

NEW SECTION. Sec. 16. Sections 2 through 15 of this act are each added to chapter 9.73 RCW and codified with the subchapter heading of "extraordinary sensing devices."

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."

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the striking amendment be adopted:

On page 1, line 11 of the amendment, after "that" insert ", while the public has no expectation of privacy from surveillance by piloted or unpiloted aerial vehicles,"

WITHDRAWAL OF AMENDMENT

On motion of Senator Honeyford, the amendment by Senator Honeyford on page 1, line 11 to the striking amendment to Engrossed House Bill No. 2789 was withdrawn.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the striking amendment be adopted:

On page 1, line 26 of the amendment, after "subdivisions" insert ", and also Santa Claus and his flying sleigh, known worldwide under a variety of aliases, who is reputed to collect personal information on all the good and bad boys and girls around the world"

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Honeyford, the amendment by Senator Honeyford on page 1, line 26 to the striking amendment Engrossed House Bill No. 2789 was withdrawn.

PARLIAMENTARY INQUIRY

Senator Fain: "Is there a special order of consideration set at 4:59 today?"

REPLY BY THE PRESIDENT

President Owen: "There was Senator but I didn't hear anyone call for it. It's now 5:01. We seem to have a problem."

PARLIAMENTARY INQUIRY

Senator Fain: "It's my understanding Mr. President that in previous times the gavel went down in the midst of whatever we were working on to go to the immediate special order of consideration."

REPLY BY THE PRESIDENT

President Owen: "That is possible Senator but I don't have anything in the rules that says that's what I'm supposed to do. It's also been a practice in the past that someone has stood up and asked the President what time it was and I didn't hear anybody do that either, Senator Fain. I mean if you want to talk about it I'm perfectly willing to talk about it."

REMARKS BY THE PRESIDENT

President Owen: "Senator Fain, did you have a point of order or not? The President believes that we're beyond five o'clock and that the business of the senate is done. The Senate Rule says that you continue the bill after the special order. There was no special order."

POINT OF ORDER

Senator Benton: "Thank you Mr. President. I believe it's always been the practice of the Senate once we begin the transaction on a bill that we are allowed to complete the transaction on the bill. The action on Engrossed House Bill No. 2789 began prior to the special order of consideration and regardless of whether there was actually a special order of consideration or not the action and activity on this bill has already begun and therefore should be completed before the Senate adjourns."

REPLY BY THE PRESIDENT

President Owen: "So are you raising to a point of order or...?"

POINT OF ORDER

Senator Benton: "Mr. President, I believe that's the way we've always operated here and I would ask that the President would continue to operate that way."

REPLY BY THE PRESIDENT

President Owen: "Well, it's based on the rules Senator and the President is perfectly happy to check the rules if that's what you're asking the President to do."

POINT OF ORDER

Senator Benton: "I am Mr. President but by your own admission we don't allow for debate on rules and sometimes you say well, the practice of the Senate can prevail so, I'm hoping that will be the case."

RULING BY THE PRESIDENT

President Owen: "In ruling upon Senator Benton's Point of Order, the President finds the rule is not crystal clear as to what happens if in fact there's not a special order of business but he believes his memory banks remind him, as well as his fine attorney over here, that in the past even if we haven't had a special order the President has allowed the bill that we were on to continue and be completed. So, the President believes that, I believe it is Engrossed House Bill No. 2789 is appropriately before us and can be completed."

MOTION

On motion of Senator Billig, Senators Liias and Mullet were excused.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the striking amendment be adopted:

On page 3, line 11 of the amendment, after "device" insert "provided that any operation of an extraordinary sensing device or personal information gathered during the operation of the device may be disclosed and used to the same extent as that obtained from the use of a piloted aircraft"

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Honeyford, the amendment by Senator Honeyford on page 3, line 11 to the striking amendment to Engrossed House Bill No. 2789 was withdrawn.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the striking amendment be adopted:

On page 3, line 14 of the amendment, after "state patrol" insert ", the department of ecology,"

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Honeyford, the amendment by Senator Honeyford on page 3, line 14 to the striking amendment to Engrossed House Bill No. 2789 was withdrawn.

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MOTION

MOTION

Senator Padden moved that the following amendment by Senators Kline and Padden to the striking amendment be adopted:

On page 5, after line 38, insert the following:

"NEW SECTION. Sec. 10. The Department of Enterprise Services shall convene a work group comprised of four legislators and a representative of the Governor. The work group will submit a report to the legislature by December 1, 2014 proposing standards for the use of extraordinary sensing devices for regulatory enforcement purposes. No state agency or state organization having jurisdiction over regulatory violations shall operate extraordinary sensing devices for regulatory enforcement purposes until the legislature has approved of standards for this purpose."

Re-number the remaining sections consecutively and correct any internal references accordingly.

Senators Padden, Kline and Roach spoke in favor of adoption of the amendment to the striking amendment.

Senator Honeyford spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kline and Padden on page 5, after line 38 to the striking amendment to Engrossed House Bill No. 2789.

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

MOTION

Senator Kline moved that the following amendment by Senators Kline and Padden to the striking amendment be adopted:

On page 6, line 17 of the amendment, after "activity," insert "Nothing in this act is intended to expand or contract the obligations of an agency to disclose public records as provided in chapter 42.56 RCW."

Senators Kline and Padden spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kline and Padden on page 6, line 17 to the striking amendment to Engrossed House Bill No. 2789.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Padden and others as amended to Engrossed House Bill No. 2789

Senator Padden spoke in favor of the striking amendment as amended.

PARLIAMENTARY INQUIRY

Senator Kline: "This is the adoption of the striking amendment?"

REPLY BY THE PRESIDENT

President Owen: "That is correct."

The motion by Senator Padden carried and the striking amendment as amended was adopted by voice vote.

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

On page 1, line 1 of the title, after "surveillance;" strike the remainder of the title and insert "adding new sections to chapter 9.73 RCW; creating a new section; and prescribing penalties."

MOTION

On motion of Senator Padden, the rules were suspended, Engrossed House Bill No. 2789 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Padden, Kline, Dinsel, Holmquist Newbry, Hargrove, Benton and Baumgartner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2789 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2789 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dinsel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, McCoy, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senator Honeyford

Excused: Senators Liias and Mullet

ENGROSSED HOUSE BILL NO. 2789 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PARLIAMENTARY INQUIRY

Senator Fain: "May I read Mr. President?"

REPLY BY THE PRESIDENT

President Owen: "You certainly may."

PARLIAMENTARY INQUIRY

Senator Fain: "Thank you Mr. President. 'Special order; Rule 18. The President shall call the Senate to order at the hour fixed for the consideration of Special Order and announce the special order is before the Senate which shall then it shall be considered unless it is postponed by the majority vote of the members present and it any business before the Senate at the time of the announcement of the special order shall take its regular position in the order of business except that if cut-off established by concurrent resolution occurs during the special order the Senate may complete the measure that was before the Senate when consideration of special order was commenced.' My question Mr. President: I believe there was acknowledged that we had a departure from tradition. This is an important issue for I

think both sides to understand as we move forward how cut-off and the special order of consideration will be treated. I'm merely seeking inquiry on how the President would ask that the members request the special order of consideration come before the body?"

REPLY BY THE PRESIDENT

President Owen: "Senator Fain, you are correct in reading the language. It says 'the President shall call the Senate to order.' The Senate was already called to order. The rule presumes that you're not in order at the time, for instance at ease or at recess. The President would come in, call the Senate to order at the time that you have ordered at that time and then state that the issue is before us. Now, let's take that a little further. From history, because the President has been around here a very long time, and that is the practice quite often has been for the majority to stand up and ask the President 'what time is it?' To remind him that it is time to go to the special order. That was not done. It is also been the practice prior to the last year or two for the call of special order at about 4:55 rather than waiting for one minute where an error can easily be made. The President would strongly urge in the future that the majority party learn to work with the President on these issues and he would be happy to work with you in return. That was not done."

MOTION

On motion of Senator Fain, the Senate advanced to the seventh order of business.

PERSONAL PRIVILEGE

Senator Fain: "Thank you Mr. President. For the information of members, we are going to be working on a few gubernatorial appointments to give those Chairs, Ranking Members and sponsors of Senate bills that are returning an opportunity to work through those folders. Hopefully the staff is bringing out those documents to the Chairs right now so that they can go and work with their Ranking Members and the bill sponsors. We'll be going through this brief order of gubernatorial appointments with the hope that we can then have those documents ready and given back to myself or to Kathleen on our staff in order to start at 9:00 a.m. tomorrow morning working on our dispute calendar. So, that's the reason we are working on gubernatorial appointments right now so please use that time to complete your folders on returning Senate bills. Thank you Mr. President."

THIRD READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Baumgartner moved that Lindsey Schaffer, Gubernatorial Appointment No. 9318, be confirmed as a member of the Board of Regents, Washington State University.

Senator Baumgartner spoke in favor of the motion.

APPOINTMENT OF LINDSEY SCHAFFER

The President declared the question before the Senate to be the confirmation of Lindsey Schaffer, Gubernatorial Appointment No. 9318, as a member of the Board of Regents, Washington State University.

The Secretary called the roll on the confirmation of Lindsey Schaffer, Gubernatorial Appointment No. 9318, as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dassel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, McCoy, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Absent: Senator Hargrove

Excused: Senators Liias and Mullet

Lindsey Schaffer, Gubernatorial Appointment No. 9318, having received the constitutional majority was declared confirmed as a member of the Board of Regents, Washington State University.

THIRD READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hewitt moved that Roland Schirman, Gubernatorial Appointment No. 9319, be confirmed as a member of the Board of Trustees, Walla Walls Community College District No.20.

Senator Hewitt spoke in favor of the motion.

MOTION

On motion of Senator Billig, Senator Kline was excused.

APPOINTMENT OF ROLAND SCHIRMAN

The President declared the question before the Senate to be the confirmation of Roland Schirman, Gubernatorial Appointment No. 9319, as a member of the Board of Trustees, Walla Walls Community College District No.20.

The Secretary called the roll on the confirmation of Roland Schirman, Gubernatorial Appointment No. 9319, as a member of the Board of Trustees, Walla Walls Community College District No.20 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dassel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kohl-Welles, Litzow, McAuliffe, McCoy, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Absent: Senator Hasegawa

Excused: Senators Kline, Liias and Mullet

Roland Schirman, Gubernatorial Appointment No. 9319, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Walla Walls Community College District No.20.

THIRD READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

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Senator Braun moved that Joanne H Schwartz, Gubernatorial Appointment No. 9320, be confirmed as a member of the Board of Trustees, Centralia Community College District No. 12.

confirmed as a member of the Board of Trustees, Centralia Community College District No. 12.

Senators Braun and Fraser spoke in favor of passage of the motion.

MOTION

APPOINTMENT OF JOANNE H SCHWARTZ

At 5:59 p.m., on motion of Senator Fain, the Senate adjourned until 9:00 a.m. Saturday, March 8, 2014.

The President declared the question before the Senate to be the confirmation of Joanne H Schwartz, Gubernatorial Appointment No. 9320, as a member of the Board of Trustees, Centralia Community College District No. 12.

BRAD OWEN, President of the Senate

The Secretary called the roll on the confirmation of Joanne H Schwartz, Gubernatorial Appointment No. 9320, as a member of the Board of Trustees, Centralia Community College District No. 12 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

HUNTER G. GOODMAN, Secretary of the Senate

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, McCoy, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Excused: Senators Liias and Mullet

Joanne H Schwartz, Gubernatorial Appointment No. 9320, having received the constitutional majority was declared

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