

State of Washington

Voters' Pamphlet

November 8, 2011 General Election



Published by the
Office of the Secretary of State

A Message from Secretary of State Sam Reed

Former U.S. House Speaker Tip O'Neill once said, "All politics is local." This year, nearly all election races in Washington State are local.

There are no federal or statewide offices on the ballot, and only two special legislative elections (4th District in Spokane County and 49th District in Clark County) are taking place to fill unexpired terms.

This year's ballot will be dominated by races for mayor, city council, county council or commission, school board and fire district board, among others. While these local contests might not receive the attention of high-profile federal or statewide races, they are very important because they have a direct impact on citizens' homes, roads, schools and communities. I applaud those who stepped forward to be candidates this year.

Your ballot also features some statewide and local ballot measures. This Voters' Pamphlet will give you comprehensive information regarding the statewide measures. Our initiative process continues to be a popular and cherished part of our state's democracy. It is an effective and powerful way for citizens to help effect change in our laws.

Voting is a simple yet effective way to shape our government. If you have not registered to vote yet, do it soon so you can take part! Then I encourage you to carefully read your Voters' Pamphlet and use our online resources to learn more about these candidates and ballot measures. Finally, *don't forget to vote!* Make your voice heard. Make a difference by voting.

Sincerely,



SAM REED

Secretary of State

Informational icons in this pamphlet



General information



Urgent information



Please note a change

Secretary of State Voter Information Hotline (800) 448-4881

Visit our Online Voters' Guide at www.vote.wa.gov.

November 8, 2011 General Election

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Presidential Primary

There will be no Presidential Primary in 2012. You can participate in the presidential nominating process by attending a caucus in early 2012.

Contact your political party for more information about how to participate in a caucus.

Washington State Democrats

PO Box 4027
Seattle, WA 98194
(206) 583-0664
info@wa-democrats.org
www.wa-democrats.org

Washington State Republican Party

11811 NE 1st St, Suite A306
Bellevue, WA 98005
(425) 460-0570
wagop@wsrp.org
www.wsrp.org

Washington's Top 2 Primary

The date of the statewide Top 2 Primary has moved to the first Tuesday in August. In 2012 that will be August 7.

The office of President does not appear in the Top 2 Primary.

Voting in Washington State

Voter qualifications

To register to vote, you must be:

- A citizen of the United States;
- A legal resident of Washington State; and
- At least 18 years old by Election Day.

Voter registration

You may register to vote at www.vote.wa.gov. In Washington State, you do not declare political party affiliation when you register to vote. There are registration deadlines prior to each election. You do not need to register before each election. You must update your registration if you move or change your name. The phone number and address of your county elections department is located in the back of this pamphlet.

Restoring the right to vote after felony conviction

If you were convicted in Washington State Superior Court, your right to vote is restored as long as you are not either in prison or on community custody for that felony with the Washington State Department of Corrections.

If you were convicted in another state or in federal court, your right to vote is restored as long as you are not incarcerated for that felony.

Services and additional assistance

Contact your county elections department for questions about your voter registration, or assistance with filling out and returning your ballot. The phone number and address of your county elections department is located in the back of this pamphlet. Contact the Office of the Secretary of State for voters' pamphlets in alternate formats or languages. The state Voter Information Hotline is (800) 448-4881.

Replacement ballots

If you didn't receive your ballot, call your county elections department and request a replacement ballot. The phone number and address of your county elections department is located in the back of this pamphlet.

Visit a voting center

Washington voters receive their ballots in the mail. Voting centers are open to serve you during regular business hours beginning 18 days before Election Day and until 8 pm on Election Day.

Voter registration materials, ballots, provisional ballots, sample ballots, instructions for how to vote, and a ballot drop box are available.

Voting centers must be accessible for voters with disabilities and offer disability access voting.

To locate a voting center near you, contact your county elections department. The phone number and address of your county elections department is located in the back of this pamphlet.

Campaign finance information

Contact the Public Disclosure Commission
711 Capitol Way, Rm 206
PO Box 40908, Olympia, WA 98504-0908
(360) 753-1111 or toll free (877) 601-2828
fdc@fdc.wa.gov
www.fdc.wa.gov

View election results

On Election Day after 9 pm you can view election results at www.vote.wa.gov.

Go online for fast, easy service

MyVote

register to vote | my voting information

Am I registered to vote?

Can I register to vote online?

Do I have to register to vote again if I move or change my name?

Where can I find information about candidates and measures that will be on my ballot?

Where can I return my ballot?

How do I contact my elected officials?

Visit MyVote at www.vote.wa.gov.

Language Assistance Available

The Voting Rights Act

The federal Voting Rights Act requires four counties in Washington State to provide translated elections materials.

The requirements are based on population figures determined by the Census. Currently, Adams, Franklin and Yakima counties provide elections materials in Spanish. King County provides information in Chinese.

Based on the 2010 Census, we expect more counties will be required to offer translated elections materials and additional languages by 2012.

For more information visit our website at www.vote.wa.gov.



Accessible format voters' pamphlets available



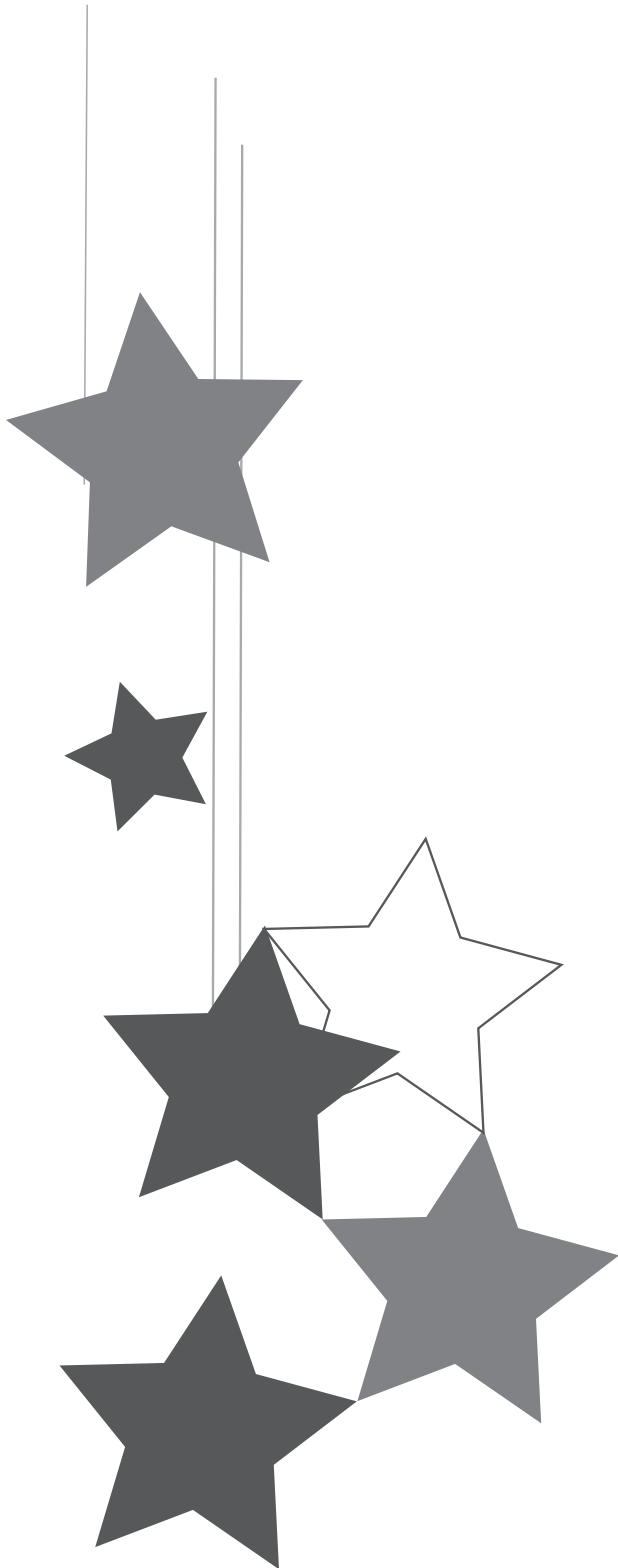
Visit www.vote.wa.gov for

- Audio
- Plain text
- Electronic Braille

Available by subscription

- Audio CD
- Large-print
- Braille

To subscribe, call the voter hotline at (800) 448-4881 or email voterspamphlet@sos.wa.gov and provide your preferred format, name, telephone number, and mailing address.



Start by getting informed. Finish with your ballot.

The Voters' Pamphlet is a good source of information about issues and candidates, but it's not the only source.

Campaign contributors

- State and local candidates and ballot measures
Public Disclosure Commission www.pdc.wa.gov
- Federal candidates
Federal Election Commission www.fec.gov

Voting records

- Washington State Legislature www.leg.wa.gov
- U.S. House of Representatives www.house.gov
- U.S. Senate www.senate.gov

Candidates and ballot measure committees

Visit their websites or call them directly to learn their positions on issues that matter to you.

Other important references

- Newspapers
- Business associations
- Labor unions
- Civic clubs
- Religious organizations
- Political organizations
- Environmental organizations
- Judicial organizations

“Democracy cannot succeed unless those who express their choice are prepared to choose wisely. The real safeguard of democracy, therefore, is education.”

Franklin D. Roosevelt

The Ballot Measure Process

The Washington State Constitution affords voters two methods of direct legislative power — the initiative and the referendum.

While differing in process, both initiatives and referenda leave ultimate legislative authority in the hands of the people.

The Initiative

Initiatives to the People - Initiatives to the people, if certified to have sufficient signatures, are submitted for a vote of the people at the next state general election.

Initiatives to the Legislature - Initiatives to the Legislature, if certified to have sufficient signatures, are submitted to the Legislature at its regular session in January.

Any registered voter, acting individually or on behalf of an organization, may propose an initiative to create a new state law or to amend or repeal an existing law.

To certify an initiative (to the people or to the Legislature), the sponsor must circulate the complete text of the proposal among voters and obtain a number of legal voters' signatures equal to 8 percent of the total number of votes cast for the office of Governor at the last regular gubernatorial election.

Initiative measures appearing on the ballot require a simple majority vote to become law (except for gambling or lottery measures, which require 60 percent approval).

The Referendum

Referendum Bills - Referendum bills are proposed laws referred to voters by the Legislature.

Referendum Measures - Referendum measures are laws recently passed by the Legislature that are placed on the ballot because of petitions signed by voters.

Any registered voter, acting individually or on behalf of an organization, may demand, by petition, that a law passed by the Legislature be referred to voters prior to going into effect. Emergency legislation is exempt from the referendum process.

To certify a referendum measure to the ballot, the sponsor must circulate among voters the text of the legislative act to be referred, and obtain a number of legal voters' signatures equal to 4 percent of the total number of votes cast for the office of Governor at the last regular gubernatorial election.

A referendum certified to the ballot must receive a simple majority vote to become law (except for gambling and lottery measures, which require 60 percent approval).

Please note: The preceding information is not intended as a substitute for the statutes governing the initiative and referendum processes, but rather should be read in conjunction with them.

For more information go to www.vote.wa.gov and select "Handbook for Filing Initiatives and Referenda in Washington State."

Initiative Measure**1125**

Proposed by initiative petition:

Initiative Measure No. 1125 concerns state expenditures on transportation.

This measure would prohibit the use of motor vehicle fund revenue and vehicle toll revenue for non-transportation purposes, and require that road and bridge tolls be set by the legislature and be project-specific.

Should this measure be enacted into law?

☐ **Yes**

☐ **No**

The Official Ballot Title and the Explanatory Statement were written by the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management as required by law. The Secretary of State is not responsible for the content of arguments or statements (WAC 434-381-180). The complete text of Initiative Measure 1125 is located at the end of this pamphlet.

Explanatory Statement

Written by the Office of the Attorney General

The Law as it Presently Exists

The legislature has enacted various laws that direct where and how tolls can be set for bridges, ferries, tunnels, roads, and related facilities. Those laws also restrict the ways in which toll revenue can be used. Initiative Measure No. 1125 would impose additional restrictions on the use of toll revenue.

The Eighteenth Amendment to the Washington Constitution requires that certain state revenue be used only for “highway purposes.” That amendment, which was approved in 1944,

provides that the following revenue must be paid into the state treasury and placed in a special fund to be used exclusively for “highway purposes”: all fees the state collects as license fees for motor vehicles; all excise taxes the state collects on the sale, distribution, or use of motor vehicle fuel; and all other state revenue “intended to be used for highway purposes.” That fund is the “motor vehicle fund” established in RCW 46.68.070. The Eighteenth Amendment also lists some uses that must be considered “highway purposes,” including the necessary operating, engineering, and legal expenses connected with the administration of public highways, county roads, and city streets; and the construction, reconstruction, maintenance, repair, and betterment of public highways, county roads, bridges, and city streets.

Since well before the adoption of the Eighteenth Amendment, the legislature has authorized the use of tolls as one means of paying for the acquisition, construction, and operation of bridges, ferries, tunnels, roads, and related facilities. That authority includes the use of tolls to retire bonds issued to finance acquisition and construction of bridges, ferries, tunnels, roads, and related facilities; tolls used for that purpose must be deposited in special trust funds kept separate from all other funds.

Under current law, the legislature must authorize the collection of tolls but it can delegate the authority to set the amounts of tolls. The legislature has designated the state Transportation Commission as the “tolling authority” responsible for setting most tolls, under standards and guidelines established in law to ensure that the revenue generated by tolls is sufficient to pay maintenance and operating costs for the facility; pay principal and interest on bonds, related financing costs, and insurance; and reimburse the motor vehicle fund for any money used from that fund to pay for bonds. Unless otherwise provided in law, all revenue from a toll facility is to be used for that facility, and tolls may continue to be collected after initial construction has been paid for to fund additional capacity, maintenance, and operation of the facility.

The Effect of the Proposed Measure, if Approved

Initiative Measure No. 1125 would require that toll amounts be set by the legislature by majority vote, rather than by the Transportation Commission, and would make the setting of

toll amounts subject to statutes that require preparation of various reports and analyses relating to costs. It would require that tolls be “uniform and consistent” and would not allow variable pricing of tolls. (“Variable priced” tolls typically are higher during periods of traffic congestion and lower at other times of the day or week.)

While the measure would leave in place the authority to collect and use tolls for the preservation, maintenance, management, and operation of a facility, it would add provisions that limit the use of some tolls to construction and capital improvement only and that require tolls on future facilities to end after the cost of the project is paid. The measure would require revenue from tolls to be used only for purposes “consistent with” the Eighteenth Amendment, and would prohibit any revenue in the motor vehicle fund or any toll fund from being transferred to the “general fund or other funds” and used for “non-transportation purposes.”

The measure would restate the existing requirement that tolls must be used on the facility for which they are collected, explicitly referencing the Interstate 90 floating bridge. The measure also would prohibit the state or a state agency from transferring or using “gas-tax-funded or toll-funded lanes on state highways” for “non-highway purposes.”

Fiscal Impact Statement

Written by the Office of Financial Management

No fiscal impact is assumed for the Tacoma Narrows Bridge and State Route 167 toll lanes. Fiscal impacts for future toll roads and toll bridges are unknown and indeterminate. The State Treasurer states that bonds secured solely by toll revenue will become prohibitively expensive if the Legislature sets tolls, thus eliminating this financing tool for transportation projects. Prohibiting variable tolling will require additional analyses estimated to cost up to \$8.3 million. Because the restrictions on future toll revenue, toll expenditures and toll lanes cannot be quantified, the fiscal impact on state and local governments from these provisions is indeterminate.

General Assumptions

The initiative is effective Dec. 8, 2011, and applies prospectively.

The term “highway purposes” is used to describe the 18th Amendment purposes. For purposes of the fiscal impact statement, “highway purposes” excludes operating funds for transit and other funding for transit, bicycle and pedestrian facilities that do not directly benefit the highway system.

Estimates are described using the state’s fiscal year (FY) of July 1 through June 30.

The fiscal impact statement covers the period FY 2012 through FY 2017.

Fiscal impacts are measured against current law, enacted budgets and bond authorizations.

Bonds are a form of state debt used to finance capital construction and transportation projects. Bonds enable the state to receive funds today on the promise that the funds will be repaid with interest. Bonds must be authorized by the Legislature and identify how the debt will be paid.

Assumptions by Section

Section 2 limits expenditures from the Motor Vehicle Fund and toll funds to transportation purposes.

Section 3 prohibits the state and its agencies from the transfer or use of gas tax or toll-funded lanes for non-highway purposes.

Section 4 applies to all tolled facilities, except the Tacoma Narrows Bridge and state ferries. The Legislature shall determine and establish tolls and charges on tolled facilities. The initiative does not change existing tolls, toll rates or methodologies. However, to impose a new toll, increase a toll or change a toll methodology to increase revenue, the Legislature must act. In addition, toll revenue must be used for the facility in which the funds are generated and only for highway purposes.

Sections 5 through 7 apply to toll bridges and other state toll facilities, excluding state ferries, first authorized after July 1, 2008. The Legislature is the tolling authority for all state highways. The initiative does not change existing tolls, toll rates or methodologies. However, to impose a new toll, increase a toll or change a toll methodology to increase revenue, the Legislature must act. In addition, for the future:

- Toll revenue must be used for the facility in which the funds are generated;
- Toll revenue must be used only for highway purposes;
- Toll rates must be uniform and consistent and may not include variable pricing; and
- Tolls on future tolled facilities must end after the cost of the project is paid.

Section 8 applies only to tolls on the Interstate 90 floating bridge. Toll revenue from this facility must be used exclusively for toll facilities and capital improvements on Interstate 90 and only for highway purposes.

State and Local Fiscal Impacts

Section 2. No fiscal impact is assumed from this section. Expenditures from the Motor Vehicle Fund and toll funds are restricted by law to transportation purposes.

Section 3. This restriction is assumed to have no impact on state or local revenues. The restriction also does not direct new expenditures or new costs. Therefore, it is assumed that state and local governments will adjust their actions to comply with this restriction, resulting in no new increased or decreased costs.

Sections 4 through 8 are described by tolled facility:

Tacoma Narrows Bridge

These sections do not apply to this bridge, and therefore, no fiscal impact is assumed.

State Route 167 High-Occupancy Vehicle Lanes

Because these tolled lanes were first authorized before July 1, 2008, only Section 4 applies to them. Tolls are authorized for this facility until June 30, 2013. It is not anticipated that toll rates will increase during this authorization. Therefore, no fiscal impact is assumed on toll revenues from the lanes. There is no debt on these lanes.

Tolls collected from high-occupancy toll lanes can be used to increase transit, vanpool, carpool and trip reduction services in the State Route 167 corridor, which could be inconsistent with highway purposes. However, enacted budgets provide that all tolls collected from the lanes be used solely for the operation, administration and enforcement of these lanes. Therefore, no fiscal impact is assumed for state and local expenditures.

State Route 520 Bridge

Sections 4 through 7 apply to this bridge. Tolls are authorized and have been set for this bridge. The Legislature has identified toll revenue as part of the State Route 520 bridge replacement and high-occupancy vehicle program. It is not known whether a toll rate increase will be necessary during the period covered by this fiscal impact statement. However, if it is necessary, the Legislature will need to act to set tolls subject to requirements contained in Section 7.

Current law requires the use of variable tolling. If a toll rate increase is necessary, a new toll rate analysis and supplemental environmental review will be required to implement a uniform and consistent toll rate. Assuming that these analyses can be conducted concurrently within project schedules, the cost is estimated at up to \$3.2 million. Prior analysis indicates that a fixed toll rate equivalent to the weighted average of variable tolls could reduce revenue by up to 11 percent due to different traffic patterns (Parsons Brinckerhoff analysis, March 2008). However, because a new analysis is necessary to quantify impacts and it is not certain that a toll rate increase is necessary during the period covered by the fiscal impact statement, the impact on toll revenue is indeterminate.

Federal Urban Partnership Agreement (UPA) grants were awarded to the Washington State Department of Transportation, King County and King County Ferry District conditioned on implementing variable tolling on the existing State Route 520 bridge. If a toll rate increase is necessary and variable tolling is prohibited, the state, King County and King County Ferry District would lose authority to spend remaining grant funds and could be required to repay the entire grant amount. The state has spent \$64.4 million of the state's \$86.1 million UPA grant, leaving \$21.7 million remaining as of July 2011. King County has spent \$34.8 million of the county's \$41 million UPA grant, leaving \$6.2 million remaining as of July 2011. The King County Ferry District was awarded \$1 million, none of which has been spent as of July 2011. Because it is not known if a toll rate increase is necessary during the period covered by the fiscal impact statement or what action the federal government will take, the impact on this grant revenue is indeterminate.

Tolls collected from State Route 520 can be used to provide for the operations of conveyances of people or goods, which could be inconsistent

with highway purposes. However, current law and enacted budgets provide that tolls collected from State Route 520 must be used for operation and administration of the tolled bridge and high-occupancy vehicle program and to repay bond obligations used to finance construction and capital improvement costs, which are assumed to be consistent with highway purposes. Therefore, no fiscal impact is assumed on state and local government expenditures during the period covered by the fiscal impact statement.

Current law authorizes the issuance of \$1.95 billion in bonds secured solely by toll revenue or secured by both toll and gas tax revenue. The State Treasurer states that requiring tolls to be set and adjusted by the Legislature rather than by an independent toll-setting body would make the cost of bonds secured solely by toll revenue prohibitively expensive and would be unprecedented nationally. Because investors in toll revenue bonds see the independence of toll-setting bodies as a critical credit characteristic, no other toll revenue bond issuer in the nation sets tolls subject to legislative approval (Public Resource Advisory Group analysis, Feb. 8, 2011). Therefore, the State Treasurer states that bonds secured solely by toll revenue would be eliminated as a financing tool for the bridge. Gas tax or other revenues would be necessary to issue bonds, reducing overall capacity to finance transportation projects, which may impact future expenditures.

Interstate 405 High-Occupancy Vehicle Lanes

Sections 4 through 7 apply to these lanes. Tolls are authorized for these lanes, but tolls have not been set. Current law requires the use of dynamic tolling. To implement a uniform and consistent toll rate, a new toll rate analysis and supplemental environmental review would be required. Assuming that these analyses can be conducted concurrently within project schedules, the cost is estimated at up to \$2.5 million. Because the new analysis is necessary to quantify impacts, the impact on toll revenue is indeterminate.

Tolls collected from Interstate 405 high-occupancy vehicle lanes can be used to provide for the operations of conveyances of people or goods, which could be inconsistent with the highway purposes. However, current law and enacted budgets provide that tolls collected from the lanes must be used for operation and administration of the tolled lanes and to repay bond obligations to finance construction and capital improvement

costs, which are assumed to be consistent with the highway purposes. Therefore, no fiscal impact is assumed on state and local government expenditures during the period covered by the fiscal impact statement.

Current bond authorizations for construction and capital improvements of Interstate 405 high-occupancy vehicle lanes from Bellevue to Lynnwood are secured by gas tax revenue. Therefore, no fiscal impact is assumed on indebtedness for these lanes.

State Route 99 Alaskan Way Viaduct

Sections 4 through 7 apply to this highway. Tolls have not been authorized by the Legislature. Current toll rate analysis for this highway has assumed the use of variable pricing. To implement a uniform and consistent rate, a new toll rate analysis and supplemental environmental review would be required. Assuming that these analyses can be conducted concurrently within project schedules, the cost is estimated at up to \$2.6 million. Because tolls have not been authorized and the new analysis is necessary to quantify impacts, the impact to toll revenue is indeterminate.

The Legislature has identified toll revenue as part of the State Route 99 Alaskan Way Viaduct replacement project. This expenditure is assumed to be consistent with the highway purposes. Therefore, no fiscal impact is assumed on state and local expenditures.

Current bond authorizations for construction and capital improvements for portions of the State Route 99 Alaskan Way Viaduct replacement project are secured by gas tax revenue. If costs exceed \$2.4 billion, no more than \$400 million of additional costs will be financed with toll revenue. Because there is no authorization to use toll revenue for bonds, the fiscal impact on indebtedness for this highway is indeterminate. Additionally, the State Treasurer states that bonds secured solely by toll revenue would be eliminated as a financing tool for this highway.

Interstate 90 Floating Bridge

Sections 4 through 8 will apply to this bridge. Whether the Legislature will authorize tolls on the Interstate 90 floating bridge and for what purpose are unknown. Therefore, the fiscal impact is unknown and indeterminate. Additionally, State Treasurer states that bonds secured solely by toll

revenue would be eliminated as a financing tool for this highway.

Future Facilities

Sections 4 through 7 will apply to future tolled facilities. The Washington State Department of Transportation was directed by the Legislature to conduct tolling analysis on the Interstate 5 Columbia River Crossing in Clark County, Interstate 5 express lanes between Seattle and Northgate, Interstate 90 in King County, Interstate 405 high-occupancy vehicle lanes from Bellevue south, State Route 509 in King County and State Route 167 extension in Pierce County. Whether the Legislature will authorize tolling on these highways and for what purpose are unknown. Therefore, the fiscal impact is unknown and indeterminate. Additionally, the State Treasurer states that bonds secured solely by toll revenue would be eliminated as a financing tool for these bridges and highways.

Mock Election

Real education

Students in grades K-12 can practice voting in the online Washington State Mock Election.

Voting opens at 9 am on Monday, October 31 and will close at 1 pm on Friday, November 4. Students in grades 6-12 will vote for real candidates and ballot measures. Younger students will be given a more age-appropriate ballot.

The Mock Election is free, fun and educational!

Make voting a family activity; encourage your kids to vote in the online Mock Election at **www.vote.wa.gov**.

Argument For Initiative Measure 1125

Olympia still doesn't get it. Four times the voters have approved initiatives requiring two-thirds vote...

...of the Legislature to raise taxes and majority vote to increase fees. Four times. Yet despite I-1053's 64% approval last year, Olympia repeatedly violated it. I-1125 closes loopholes they put in I-1053, requiring again that fee increases be decided by elected representatives of the people, not unelected bureaucrats at state agencies. I-1125 ensures accountability and transparency.

Voters rejected a state income tax. Olympia's response? "Anything goes" tolls which'd be even worse

If Olympia is going to force struggling families to pay thousands of dollars per year in burdensome tolls, I-1125 makes sure tolls are dedicated to the project. And when the project is paid for? The toll goes away. Without I-1125, tolls will continue *forever*, being raided and diverted during "emergencies."

Tolls aren't taxes – I-1125 keeps it that way.

I-1125 requires transportation taxes only be used for transportation – stops Olympia's bait & switch schemes

Our state imposes one of the highest gas taxes in the nation, collecting *billions* in transportation taxes and fees every year – before double-taxing us with burdensome tolls, I-1125 stops transportation revenue from being diverted to non-transportation purposes.

I-1125 reinstates I-1053's voter approved protections, closes loopholes, and reinforces existing statutory and constitutional protections

Governor Gregoire: *"I'm not gonna let 1053 stand in the way of me moving forward for what I think is right."* Voters approved I-1053 – don't let Olympia get away with violating it. Vote yes (again). Approve I-1125.

Rebuttal of Argument Against

Olympia repeatedly violated last year's I-1053 despite voters' 64% approval – I-1125 brings back I-1053's protections. Tolls aren't taxes – I-1125 keeps it that way. Our Constitution's 18th Amendment protects transportation revenue – I-1125 backs it up. I-1125's policies all relate to ensuring accountability and transparency on transportation spending on past, current, and future projects by having politicians abide by the Constitution and voter-approved laws like I-1053. Make Olympia follow the law. Vote yes (again). Approve I-1125.

Argument Prepared by

Erma Turner, beauty shop owner, gathered 1282 signatures, Cle Elum; **Darryl Ehlers**, farmer, husband, father, poet, gathered 1003 signatures, Lynden; **Larry Helseth**, wife Mandy, retired couple, gathered 925 signatures, Vancouver; **Tim Eyman**; **Lauralei Bencze** (retired Boeing), husband Steve, gathered 980 signatures, Othello; **Bessie Danilchik**, housewife, gathered 825 signatures, lifetime resident of Seattle.

Contact: (425) 493-8707; jakatak@comcast.net; www.VotersWantMoreChoices.com

Argument Against Initiative Measure 1125

Initiative 1125 is another flawed and irresponsible Tim Eyman initiative. At a time when our economy is hurting, 1125 creates transportation gridlock, places projects across Washington at risk, increases congestion and eliminates thousands of jobs.

Olympia Politicians Should Not Set Toll Rates

No state in the country allows legislators to set tolls because investors won't buy bonds backed by tolls that are subject to legislative politics. A bipartisan supermajority of the legislature already voted to have an independent commission of experts set tolls, but 1125 re-inserts politics into the process. Why have legislators from Bellingham set tolls for projects in Tacoma? Independent experts commissioned by the State Treasurer say 1125 will cause the state to lose billions in toll bond funding for major projects.

Gridlock on Important Projects

1125 stalls construction projects across the state vital to our economy. The 520 Bridge, I-405 expansion, and hundreds of local and rural gas-tax funded projects across the state are threatened. Eyman says 1125 will kill voter-approved light rail across I-90 – lawsuits will follow.

Increases Costs for Taxpayers

Eyman's transportation measures have all been defeated by voters or overturned in court because of unintended consequences or constitutional questions. We need jobs, not costly transportation chaos.

Tolls Are Fairer

Tolls are a user fee – people only pay for what they use. That's fairer than raising taxes on everyone – or diverting limited resources – to fund critical projects. Transportation experts across the state oppose 1125. So do business, labor and environmental leaders. Please vote *no*.

Rebuttal of Argument For

Tim Eyman is the one playing bait and switch. 1125 has nothing to do with the two-thirds requirement for tax increases. 1125 wrongly authorizes the legislature to set toll rates. No other state in the country allows politicians to set rates – a prescription for unfair tolls and huge new financing costs. 1125 threatens light rail and critical road projects, will cost thousands of jobs, increases gridlock and harms our economy. Vote *no* on 1125.

Argument Prepared by

Doug MacDonald, Former State Transportation Secretary; **Sid Morrison**, Former State Transportation Secretary, Yakima Resident; **Jim McIntire**, Washington State Treasurer; **Jeff Johnson**, President, Washington State Labor Council, AFL-CIO; **Laura Peterson**, Vice-President, Government Relations – Northwest, The Boeing Company; **Phil Bussey**, President & CEO, Greater Seattle Chamber of Commerce.

Contact: (206) 660-6356; info@VoteNo1125.com; www.VoteNo1125.com

Initiative Measure**1163**

Proposed by initiative petition:

**Initiative Measure
No. 1163 concerns
long-term care workers
and services for elderly
and disabled people.**

This measure would reinstate background checks, training, and other requirements for long-term care workers and providers, if amended in 2011; and address financial accountability and administrative expenses of the long-term in-home care program.

Should this measure be enacted into law?

☐ Yes

☐ No

The Official Ballot Title was written by the Attorney General as required by law and revised by the court. The Explanatory Statement was written by the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management as required by law. The Secretary of State is not responsible for the content of arguments or statements (WAC 434-381-180). The complete text of Initiative Measure 1163 is located at the end of this pamphlet.

Explanatory Statement

Written by the Office of the Attorney General

The Law as it Presently Exists

Long-term care workers assist the elderly and persons with disabilities in the homes of the people they assist or through assisted living facilities, adult family homes, or state-licensed boarding homes. Assistance by long-term care workers may include help with eating, dressing, bathing, meal preparation, household chores, and other assistance with daily life. Long-term

care workers might provide this assistance under a direct contract with the state as an individual provider, or they might be employees of home care agencies or other facilities. Long-term care workers include respite care providers, community residential service providers, and any other worker who directly provides home or community-based services to the elderly or persons with functional or developmental disabilities. Long-term care workers do not include employees of nursing homes, hospitals or other acute care facilities, adult day care centers, or adult day health providers. Long-term care workers are paid according to a collective bargaining agreement negotiated with the state, subject to legislative approval.

State law currently requires that long-term care workers receive training. Additional requirements are scheduled to take effect in the future. Under current law, long-term care workers hired on or after January 1, 2014, will be required to be certified by the state Department of Health as "home care aides" within 150 days of beginning work. To be certified, long-term care workers will need to complete specific training and pass an examination. The requirement that long-term care workers receive 35 hours of basic training will increase to a 75-hour requirement on January 1, 2014. State law requires that the state pay for the training, and pay long-term care workers for the time they spend in training. After they are certified, long-term care workers hired after January 1, 2014, will be required to receive 12 hours of continuing training each year. There are reduced requirements for those who only provide care for their own adult children or parents. The state will also be required to offer advanced training to long-term care workers beginning January 1, 2014.

State law also requires that long-term care workers receive criminal background checks. These checks determine whether long-term care workers have a criminal history that would disqualify them from working with vulnerable persons. These checks currently look only for criminal convictions in Washington. If the worker has lived in Washington less than three years, then a fingerprint-based check also is conducted through the Federal Bureau of Investigation (FBI). All long-term care workers hired after January 1, 2014, will be required to receive a fingerprint-based check through the FBI, no matter how long they have lived in Washington.

The Effect of the Proposed Measure, if Approved

Initiative Measure 1163 would move up the date by which the additional training, certification, and background check requirements for long-term care workers take effect. The requirement that long-term care workers receive certification as “home care aides,” and receive additional training would apply to all long-term care workers hired on or after January 7, 2012, instead of January 1, 2014. The requirement that long-term care workers receive criminal background checks through the FBI would apply to all long-term care workers hired on or after January 1, 2012, instead of January 1, 2014. Community residential service providers would not be covered by these additional training, certification, and background check requirements until January 1, 2016.

In addition, this measure would require that the state auditor conduct performance audits of the state’s long-term in-home care program. The first audit would have to be completed within twelve months after this measure takes effect. The auditor would be required to conduct performance audits “on a biannual basis thereafter.” This measure would also require the state to hire five additional fraud investigators.

This measure would require the state to limit its administrative expenses so that at least 90% of taxpayer spending on the long-term in-home care program is devoted to direct care. The state would be required to achieve this limitation within two years after this measure takes effect. This measure also provides that if the passage of this act triggers changes to any collective bargaining agreement, then those changes go into effect immediately without the need for legislative approval.

Fiscal Impact Statement

Written by the Office of Financial Management

Current law requires increased mandatory training, background checks and certification for long-term care workers, depending on worker classification, beginning Jan. 1, 2014. Initiative 1163 would require the training, background checks and certification for long-term care workers to begin Jan. 7, 2012, but delay these requirements for community residential providers until Jan 1, 2016. For the long-term in-home care program, administrative costs are capped and performance audits with additional fraud

investigators are required. Over six fiscal years, costs are estimated to increase \$31.3 million and revenue from the federal government and fees is estimated to increase \$18.4 million.

General Assumptions

The Washington State Office of Financial Management, in consultation with the Washington State Department of Social and Health Services (DSHS) and Department of Health (DOH), developed a model to estimate the costs and expenditures of implementing increased mandatory training, background checks and certification for long-term care workers. This model was first developed for the fiscal impact statement for Initiative 1029, passed in 2008, and subsequently used for fiscal notes on legislation, including Engrossed Substitute Senate Bill 6180 (2009) and Engrossed Substitute House Bill 1548 (2011). This statement uses this model updated to the June 2011 Caseload Forecast Council forecast (forecast).

The following assumptions are used to measure fiscal impacts:

- Estimates are described using the state’s fiscal year (FY) of July 1 through June 30.
- The initiative applies prospectively with an implementation date of Jan. 7, 2012.
- Current law directs that increased mandatory training, background checks and certification for long-term care workers begin Jan. 1, 2014. The initiative would require training, background checks and certifications to begin Jan. 7, 2012, but delay the requirements for workers who are community residential service providers to Jan. 1, 2016. Revenues, expenditures and costs already assumed to begin Jan. 1, 2014, are netted against revenues, expenditures and costs generated from the initiative.
- Increased mandatory training, background checks and certification requirements vary by type of long-term care worker:
 - Beginning Jan. 7, 2012, workers who care for the elderly or persons with disabilities are required to complete 75 hours of mandatory training (up from 35 hours), background checks and certification. The training includes five hours of basic safety information and orientation that must be completed before the worker begins employment. The remaining 70 hours

must be completed within 120 days of the worker being hired and can include 12 hours of structured peer mentoring.

- Beginning Jan. 7, 2012, workers hired as individual providers who care for their own elderly or disabled parent or child, or individual providers who work 20 hours or less per month are required to complete increased mandatory training (the amount varies), background checks and certification requirements.
- Beginning Jan. 1, 2016, workers who are community residential providers (supported living providers) are required to complete 75 hours of mandatory training (up from 35 hours), and background checks, but do not require certification.
- All workers are required to complete 12 hours of continuing education courses each year to maintain certification. DSHS must offer, but not require, advanced training to long-term care workers.
- The number of workers who would receive training was developed using the June 2011 Caseload Forecast Council estimate of the number of long-term care clients.
- Current wage information was used as the basis for wage costs, with no inflationary increases included.
- The initiative does not trigger changes to the collective bargaining agreement reached between the state and the exclusive bargaining representative of long-term care workers. Therefore, no fiscal impact is assumed.
- No revenue, cost, expenditure or indebtedness impacts are assumed for local governments.
- There is no state debt associated with long-term care worker training and background check requirements. Therefore, state fiscal impacts are limited to revenues, costs and expenditures.

State Revenue Impacts

Table 1.1, located at the end of this Fiscal Impact Statement, shows estimated revenues by fiscal year factoring in new revenue, revenues already assumed in the forecast, and reduced revenue from the delay of training and background checks for community residential providers. Estimates

contained in parentheses (\$XXX) represent a net revenue reduction.

Some training costs are eligible for 50 percent matching funds from the federal government. The net increase in revenue from the federal government is estimated at \$9.5 million over six fiscal years.

Fees would be paid by long-term care workers applying for certification or renewing their certification. Assuming a \$60 certification fee, the net increase in revenue from fees is estimated at \$8.9 million over six fiscal years.

The initiative directs the state to develop a plan to cap administrative expenses of the long-term in-home care program to 10 percent of taxpayer spending by Jan. 1, 2014. No fiscal impacts are assumed from this portion of the initiative. Based on FY 2011 expenditures, administrative expenses are currently estimated to be 9.9 percent of taxpayer spending using the following assumptions:

- Administrative costs are assumed to mean overhead costs billed as administrative match to the federal Centers for Medicare & Medicaid Services.
- Tax spending is assumed to mean expenditures funded from the State General Fund.
- The term “direct care” is assumed to mean any funds paid to qualified providers of long-term care services, including wages for hands-on workers and any of the provider’s related overhead costs.
- The long-term in-home care program is assumed to mean providers of personal care as well as most forms of community-based care, including adult family homes and boarding homes. The definition does not include costs outside of DSHS’ in-home program, such as DOH’s certification work.

State Expenditures and Costs

Table 1.2, located at the end of this Fiscal Impact Statement, shows estimated costs by fiscal year factoring in new costs, costs already assumed in the forecast, and reduced costs from the delay of training and background checks for community residential providers. Estimates contained in parentheses (\$XXX) represent a net cost reduction.

Department of Social and Health Services Expenditure and Cost Assumptions

DSHS would be required to approve the mandatory training curriculum, including continuing education and advanced training. DSHS would obtain background checks, including fingerprints, at no cost to the worker. Workers would be paid wages for the time they attend required training classes. Costs are also assumed for administrative staff, rule-making activities, information technology changes and contract administration. The combined net cost of these expenditures is estimated to be \$19.6 million over six fiscal years.

The initiative directs the state to hire five additional fraud investigators as part of the performance auditing process. Assuming the investigators will be hired by DSHS, this cost is estimated to be \$2.5 million over six fiscal years.

Department of Health Expenditure and Cost Assumptions

DOH would certify workers who complete the required training and pass a background check within the first 150 days of employment. Workers would not be paid for the time spent taking the certification exam. The combined net cost of these expenditures is estimated to be \$7.1 million over six fiscal years.

Performance Audit and Fraud Prevention Expenditure and Cost Assumptions

The initiative directs the Washington State Auditor's Office to conduct performance audits of the long-term in-home care program biannually, which is assumed to be twice per year. Assuming the term "long-term in-home care program" has the same meaning as used in State Revenue Impacts above, the Auditor's Office estimates it will need three full-time auditors and incur travel and other costs to conduct the audits. This cost is estimated to be \$2.1 million over six fiscal years.

Table 1.1 State Revenue Impacts

Fiscal Year	2012	2013	2014	2015	2016	2017	REVENUE
Federal Funds	\$3,786,000	\$7,706,000	\$2,745,000	(\$3,385,000)	(\$1,583,000)	\$218,000	\$9,487,000
Fees	\$717,000	\$2,027,000	\$2,265,000	\$1,699,000	\$1,274,000	\$955,000	\$8,937,000
TOTAL	\$4,503,000	\$9,733,000	\$5,010,000	(\$1,686,000)	(\$309,000)	\$1,173,000	\$18,424,000

Table 1.2 State Expenditures and Costs

Fiscal Year	2012	2013	2014	2015	2016	2017	COSTS
DSHS Costs	\$8,935,000	\$17,792,000	\$6,093,000	(\$7,593,000)	(\$3,571,000)	\$449,000	\$22,105,000
DOH Costs	\$1,841,000	\$2,588,000	\$1,654,000	\$355,000	\$357,000	\$294,000	\$7,089,000
State Auditor Costs	\$235,000	\$595,000	\$320,000	\$320,000	\$320,000	\$320,000	\$2,110,000
TOTAL	\$11,011,000	\$20,975,000	\$8,067,000	(\$6,918,000)	(\$2,894,000)	\$1,063,000	\$31,304,000

Argument For Initiative Measure 1163

All of us want safe, quality care for frail seniors and people with disabilities. In 2008, voters overwhelmingly supported full federal background checks and training for long-term care workers who assist our most vulnerable residents, but Olympia politicians ignored our will. Initiative 1163 restores those common sense protections.

Closes Background Check Loophole

Since 2008, adult family home abuse citations are up 15 percent. Seniors and people with disabilities are highly vulnerable to fraud and abuse. It is irresponsible to entrust their care to people who could have a violent or abusive history. 1163 ensures caregivers receive federal background checks, not the current local check that misses out-of-state crimes.

Restores Basic Training, Certification

Home care workers do the same work as nursing home assistants in more isolated environments with less training. While manicurists complete 600 hours of training, home care workers receive less than 40 hours. 1163 protects seniors by requiring home care workers receive comparable training to nursing home assistants.

Requires Efficiency and Accountability

1163 protects taxpayers: requires annual independent audits, requires full-time fraud investigators and requires at least 90 percent of funds go to direct care, not state administrative expenses.

Need is Growing

As our population ages, we need a qualified workforce to help seniors live with dignity in their own homes. Training and background checks are the first step in creating a stable, professional workforce that earns a living wage, while providing cost effective, safe, quality care. Our elders deserve protection. Vote *yes* on 1163.

Rebuttal of Argument Against

Who opposes training for home care workers? Scandal-tarnished providers exposed by the SeattleTimes for negligence and profiteering. Current background checks don't catch out-of-state crimes – federal checks will – and many caregivers currently have no training requirement. Non-partisan state fiscal analysis found 1163 costs only \$13 million over six years – 1/30th of one percent of the budget. And 1163 saves millions by keeping seniors out of nursing homes. Vote *yes* on 1163.

Argument Prepared by

Eugene May, M.D. on behalf of National Multiple Sclerosis Society; **Deborah Osborn**, Parent of child with developmental disabilities, Tacoma; **Martin Levine**, M.D., Family Physician and Geriatrician, Assistant Medical Director; **Sarah White**, R.N. Senior Care Unit, major area hospital; **David Hoffman**, Severe burn survivor, home care client, Port Orchard; **Nora Gibson**, Executive Director, Full Life Care home care agency.

Contact: (206) 467-1565; info@yes1163.com; www.yes1163.com

Argument Against Initiative Measure 1163

Vote *no* on Initiative 1163 to preserve services for seniors and disabled citizens.

This measure has the wrong priorities.

Raising taxes and eliminating services to pay for a costly unfunded initiative is not in our states or our citizens' best interest. Taxpayer dollars for services for low-income seniors and the disabled should go directly to those needing care, not to a training program run by the state's largest union. Because of budget cuts, many long term care services were greatly reduced or eliminated. Our state does not have money to spend on a special interest training program while cutting essential services to our citizens. It is more important to restore these services than to spend millions on additional training and background checks for home care workers.

I-1163 requires either raising taxes or slashing other services to seniors and the disabled.

If passed, the additional training and background checks required by this measure will cost taxpayers \$80 million over the next two years when the state is facing another \$2.8 billion budget deficit.

We support appropriate training for home care workers. This misleading measure makes it seem like background checks aren't required for long term care workers, when they are, and that Washington doesn't have mandated training programs for long term care workers, when it does.

It's absurd to raise taxes, or further cut services to pay for additional training...

...and background checks for in-home care workers when they already exist in state law. Protect seniors and the disabled. Vote *no*.

Rebuttal of Argument For

I-1163 has a hidden agenda. Rather than protecting seniors and disabled residents, it takes \$80 million in funding away from direct services to fund a private union training program. Background checks are already required by law in RCW 43.20A.710 and so is basic training. This unfunded initiative soaks taxpayers at the expense of our seniors' care. Please *vote no* on 1163 to preserve essential services to seniors and the disabled in these painful economic times.

Argument Prepared by

Cindi Laws, Executive Director, Washington State Residential Care Council; **David Lawrence**, President, Washington Private Duty Association; **Doris Visaya**, RN, BSN, Home Care Association of Washington; **Leslie Emerick**, MPA, HCAW, WAPDA; **Craig Frederickson**, member, Governor's Caregiver Training Workshop; **Frank Jenkins**, retired member, Washington Council on Aging.

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Initiative Measure**1183**

Proposed by initiative petition:

**Initiative Measure
No. 1183 concerns
liquor: beer, wine, and
spirits (hard liquor).**

This measure would close state liquor stores and sell their assets; license private parties to sell and distribute spirits; set license fees based on sales; regulate licensees; and change regulation of wine distribution.

Should this measure be enacted into law?

☐ Yes

☐ No

The Official Ballot Title was written by the Attorney General as required by law and revised by the court. The Explanatory Statement was written by the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management as required by law. The Secretary of State is not responsible for the content of arguments or statements (WAC 434-381-180). The complete text of Initiative Measure 1183 is located at the end of this pamphlet.

Explanatory Statement

Written by the Office of the Attorney General

The Law as it Presently Exists

In Washington, the state sells and controls the distribution and sale of "spirits." The term "spirits" refers to alcoholic beverages also called "hard liquor" (whiskies, vodka, gin, etc.). Spirits include beverages containing distilled alcohol and wines exceeding twenty-four percent alcohol by volume. Spirits do not include lower alcohol content beverages such as flavored malt beverages, beer, or wines containing less than twenty-four percent alcohol by volume.

In Washington, spirits are sold at retail at state-run liquor stores and at "contract liquor stores." Contract liquor stores are private businesses that sell spirits and other liquor under a contract with the state. Washington has approximately 165 state liquor stores and 160 contract liquor stores.

The Washington State Liquor Control Board ("the Board") operates the state liquor stores and oversees the contract liquor stores. Among its responsibilities, the Board regulates liquor advertising in the state. The Board, however, cannot advertise liquor sales.

The Board sets the price for spirits sold at state-run and contract liquor stores based on the wholesale cost of the spirits, taxes, and a markup authorized by statute. The Board also collects the taxes imposed on the retail sale of spirits, and collects license fees and penalties. The proceeds received from the sale of spirits, the tax revenues on spirits, and license fees are distributed to cities, counties, and the state. Certain revenues are dedicated to funding programs addressing alcohol and drug abuse treatment and prevention.

In Washington, manufacturers and suppliers of spirits may only sell spirits to the Board. The Board acts as the sole distributor of spirits sold in the state liquor stores and contract liquor stores, and sold by restaurants and certain other licensed sellers. Under a law effective June 15, 2011, the state must examine whether to lease the state's liquor distribution facilities to a private party, and whether such a lease would produce better financial returns for the state.

Existing law allows private parties to sell or distribute alcoholic beverages that are not spirits, such as wine or beer. Wine and beer sellers are licensed by the state. There are different licenses for each of "three tiers" of the wine and beer business: (1) manufacturing; (2) distribution; and (3) retail sales. Existing law regulates the financial relationships and business transactions allowed between manufacturers, distributors, and retailers. While there are some exceptions, retailers are allowed to purchase wine or beer only from distributors. Similarly, distributors are allowed to purchase only from manufacturers, with certain exceptions.

Existing law requires wine and beer manufacturers and distributors to maintain published price lists and offer the same price to every buyer. This requirement of uniform pricing prevents manufacturers or distributors from selling wine or beer at discounted prices to select customers, such

as a quantity discount or other business reason for a discount. Existing law also requires wine and beer retailers to receive all wine and beer at their retail store and to not take delivery or store wine or beer at a separate warehouse location.

The Effect of the Proposed Measure, if Approved

Initiative 1183 allows private parties to sell and distribute spirits, and alters the Liquor Control Board's powers and duties. It eliminates the Board's power to operate state liquor stores, to supervise the contract liquor stores, to distribute liquor, and to set the prices of spirits. Initiative 1183 directs the Board to close state liquor stores by June 1, 2012. It directs the Board to sell assets connected with liquor sales and distribution, and to sell at auction the right to operate a private liquor store at the location of any existing state liquor store. Initiative 1183 repeals a 2011 law that directed the state to examine the financial benefit of leasing the state liquor distribution facilities to a private party.

Under Initiative 1183, qualifying private parties may obtain licenses to distribute spirits or to sell spirits at retail. A retail spirits license allows the retailer to sell spirits directly to consumers, and allows the sale of up to 24 liters of spirits for resale at a licensed premise, such as to a restaurant. Initiative 1183 allows private distributors to start selling spirits on March 1, 2012, and private retail spirits sales to start on June 1, 2012.

To obtain a retail spirits license, a store must have at least 10,000 square feet of enclosed retail space in a single structure. However, Initiative 1183 also allows a retail spirits license for a store at the location of a former state liquor store or contract liquor store, even if the store is smaller than 10,000 square feet. It also allows smaller stores where there are no 10,000 square foot licensed spirits stores in the area. Initiative 1183 requires retail stores to participate in training their employees to prevent sales of alcohol to minors and inebriated persons.

Initiative 1183 allows local governments and the public to provide input before issuance of a license to sell spirits. Initiative 1183 preserves local government power to zone and regulate the location of liquor stores.

Initiative 1183 would not change the existing taxes on spirits. Initiative 1183 would require spirits retailers and distributors to pay license fees to the state. Retail stores would pay a fee of seventeen percent of gross revenues from spirits sales under

the license, plus an annual \$166 fee. Spirits distributors would pay an annual \$1,320 fee, plus a percentage of gross revenues from spirits sales under the license. During the first two years of a spirits distributor license, the distributor license fee would be ten percent of the distributor's gross spirits sales. After two years, the spirits distributor fee would drop to five percent of the distributor's gross spirits sales.

Initiative 1183 also requires that all persons holding spirits distributor licenses must have together paid a total of one hundred fifty million dollars in spirits distributor license fees by March 31, 2013. If the total license fees received from all distributor license holders is less than one hundred fifty million dollars, the Board must collect additional spirits distributor license fees to make up the difference. This additional fee would be allocated among the persons who held a spirits distributor license at any time before March 31, 2013.

In addition to existing laws controlling the distribution of moneys received by the Board, a portion of fees from retail spirits licenses and spirits distributor licenses would be distributed to border areas, counties, and cities to enhance public safety programs.

Initiative 1183 also changes laws that regulate the retailers, distributors, and manufacturers of wine. Initiative 1183 eliminates the requirement that distributors and manufacturers of wine sell at a uniform price, which would allow the sale of wine at different prices based on business reasons. Spirits could also be sold to different distributors and retailers at different prices. Beer manufacturers and distributors, however, would continue to be regulated by existing laws requiring uniform pricing. Under Initiative 1183, retailers could accept delivery of wine at a retail store or at a warehouse location. Under Initiative 1183, a store licensed to sell wine at retail may also obtain an endorsement allowing the store to sell to license holders who sell wine for consumption on the premise. For example, this would allow the store to sell wine to a restaurant that resells the wine by the glass or bottle to its customers.

Fiscal Impact Statement

Written by the Office of Financial Management

The fiscal impact cannot be precisely estimated because the private market will determine bottle cost and markup for spirits. Using a range of

assumptions, total State General Fund revenues increase an estimated \$216 million to \$253 million and total local revenues increase an estimated \$186 million to \$227 million, after Liquor Control Board one-time and ongoing expenses, over six fiscal years. A one-time net state revenue gain of \$36.4 million is estimated from sale of the state liquor distribution center. One-time debt service costs are \$5.3 million. Ongoing new state costs are estimated at \$158,600 over six fiscal years.

General Assumptions

The initiative uses the term “spirits” to describe alcoholic beverages that are distilled instead of fermented. For purposes of the fiscal impact statement, the term “liquor” is used for “spirits” to maintain consistent terminology. Beer and wine are not spirits or liquor.

Estimates are described using the state’s fiscal year (FY) of July 1 through June 30.

New liquor distributor licenses and new liquor retailer licenses are available beginning Feb. 8, 2012. There is no limit on the number of licenses that can be issued.

Liquor distributor licensees can begin making sales of liquor March 1, 2012. Liquor retailer licensees can begin making sales of liquor June 1, 2012.

By June 15, 2012, the state will no longer operate the state liquor distribution center or state liquor stores.

Estimates assume 1,428 licensed liquor retailers based on research from implementation of Substitute Senate Bill 6329 that authorized beer and wine tasting at grocery stores with a fully enclosed retail area of 9,000 square feet and the current number of state-operated and contract-operated liquor stores (328). The number of licenses is assumed to be constant for each fiscal year.

Estimates assume 184 licensed liquor distributors, based on the number of current Washington State Liquor Control Board (LCB) licensed beer and wine distributors, wine distributors, distilleries and liquor importers. The number of licenses is assumed to be constant for each fiscal year.

Estimates of impacts are measured against the June 2011 LCB revenue forecast (forecast).

Retail liquor liter sales are estimated to grow 5 percent from increased access to liquor. This assumption is based on an academic study and

growth experienced in Alberta, Canada, after converting from state-operated liquor stores to private liquor stores. A decrease in liquor liter sales is estimated using the forecast price elasticity assumption of 0.49 percent. Price elasticity is a method used to calculate the change in consumption of a good when price increases or decreases. For every 1 percent increase/decrease in price, liquor liter sales increase/decrease 0.49 percent. Growth from increased access and price elasticity is in addition to normal 3 percent growth in liquor liter sales assumed in the forecast.

State and Local Revenues

Actual fiscal impacts depend on liquor bottle cost in the private market and the markup applied by both private liquor distributors and retailers. Therefore, there is a wide range of potential fiscal impacts.

To estimate gains or losses to the state and local governments, the fiscal impact statement used a model developed for prior initiatives, adjusted to reflect the content of this initiative. The model measures the difference between LCB forecasted liquor revenues and the sum of the revenue gains and losses (see Table 2.1 and Table 2.2, located at the end of this Fiscal Impact Statement) generated under the initiative using the set of assumptions set forth below.

State and Local Government Revenue Assumptions

LCB’s forecasted average bottle price for a liter of liquor (before taxes and markup) is used to estimate both state and private market bottle price.

State’s markup on liquor is 51.9 percent during FY 2012 and FY 2013, and 39.2 percent thereafter.

Total private distributor/retailer markup for liquor sold in stores is set at a low of 52 percent and a high of 72 percent from March 1, 2012, to March 1, 2014. Thereafter, the private market markup is assumed to be a low of 47 percent and a high of 67 percent. The selected range was based on the following sources:

- Low markup — 25 percent — is based on U.S. Internal Revenue Service data (sales revenue minus cost of goods) of retail food, beverage and liquor stores throughout the United States.
- High markup — 45 percent — is the total liquor markup contained in the Washington State Auditor review and is based on

information from the Distilled Spirits Council of the United States.

- To these percentages, 27 percent is added through Feb. 28, 2014, and 22 percent is added thereafter. These percentages represent the total amount of new liquor distributor and retailer license fees under the initiative. While individual distributor and retailer actions will vary, academic research supports an assumption that, in the aggregate statewide, the value of the new liquor distributor and retailer license fees will be passed on to the consumer in the private market markup.
- See Table 2.3, located at the end of this Fiscal Impact Statement.

The initiative imposes a new liquor distributor license fee of 10 percent of total liquor revenues from March 1, 2012, to March 1, 2014; the fee decreases to 5 percent thereafter. The initiative imposes a new liquor retailer license fee of 17 percent of total liquor revenues beginning June 1, 2012.

Based on inventory information from the Retail Owners Institute®, private liquor stores are estimated to maintain two months of liquor inventory. In contrast, state-operated liquor stores maintain 1.2 months of liquor inventory. Therefore, an additional 0.8 month of liquor liter sales to liquor retailers is assumed during FY 2012.

If the new liquor distributor license fee totals less than \$150 million by March 31, 2013, these licensees must pay the difference between \$150 million and actual receipts by May 31, 2013. The model estimates that \$84 million to \$91 million will be paid by licensees during FY 2013 due to this requirement.

The initiative sets a \$1,320 license fee for each liquor distribution location and a \$166 license fee for each liquor retailer license. Both fees are due at the time of license renewal.

Liquor distributor licensees are assumed to be subject to the wholesaling business and occupation (B&O) tax. Liquor retailer licensees are assumed to be subject to the retailing B&O tax.

Liquor liter taxes and liquor sales taxes are amended by the initiative, but these changes are assumed not to increase, create or eliminate any tax.

Except for the loss of sales in state-operated liquor stores, estimates do not assume any change in pricing or volume of sales of beer and wine.

State-operated liquor stores sell Washington State Lottery products to the public. The estimate assumes 25 percent of these sales will be lost and remaining sales will occur in other outlets selling Washington State Lottery products. This revenue loss is estimated to be \$1.8 million over six years.

Estimates of sales by current restaurant licensees who sell liquor at retail are limited to changes from price elasticity and the loss of the state's 15 percent quantity price discount to these licensees.

Estimates do not assume any change in sales by liquor stores operated on military bases. Such sales are assumed not to be subject to liquor liter taxes, liquor sales taxes or B&O tax.

Estimates do not assume any change in sales by liquor stores operated by tribes. Such sales are assumed to be subject to liquor liter taxes and liquor sales taxes based on current agreements between tribes and LCB, but are not subject to B&O tax.

No additional change is assumed for tax avoidance/non-compliance by consumers or migration of sales in and out of state by consumers. These items are assumed in the forecast price elasticity assumption.

Revenue from the state markup used to pay for the state liquor distribution center and state liquor store costs are netted to zero. The initiative eliminates both the revenue (markup) and the costs (state liquor distribution center and state liquor stores), which results in no additional revenue to the state.

The initiative requires new liquor distributor and retailer fees to be deposited into the Liquor Revolving Fund. The Liquor Revolving Fund is distributed by statute in the following order:

1. Payment of LCB administrative costs;
2. Distributions to state accounts for specific purposes (such as drug and alcohol research at the University of Washington and Washington State University);
3. Border areas (cities, towns and counties adjacent to the Canadian border); and
4. The remainder after these distributions:
 - a) 50 percent to the State General Fund;
 - b) 10 percent to counties; and c) 40 percent to cities and towns.

Therefore, the model first reduces the Liquor Revolving Fund by LCB costs, one-time and ongoing, to determine total revenues distributed

to the State General Fund and local governments. Other revenues (beer taxes, wine taxes, penalties, etc.) deposited into the Liquor Revolving Fund are assumed to be unaffected by the initiative and continue to be shared between the state and local governments.

Specific Local Government Revenue Assumptions

New liquor distributor and retailers license fees must be used to maintain, in the aggregate, Liquor Revolving Fund distributions to counties, cities, towns, border areas and the Municipal Research Service Center in an amount no less than the amount received in comparable periods. For purposes of the model, comparable period is measured by funds forecasted for calendar year 2011. The model estimates that local distributions will exceed the maintenance level required by the initiative each fiscal year.

An additional \$10 million is also provided to counties, cities, towns and border areas.

Approximately 38 cities and towns impose a local B&O tax. Using data from the Washington State Department of Revenue's 2008 Tax Reference Manual, total local B&O tax is approximately 10 percent of total state B&O tax. Assuming this ratio, \$3 million is estimated as new local B&O taxes from liquor sales over six fiscal years.

Total local government revenues are the sum of the increased Liquor Revolving Fund distributions, the additional \$10 million and local B&O tax.

Specific State Asset Assumptions

The sale of the state liquor distribution center is estimated to generate a potential net \$28.4 million in revenue. Because the sale date cannot be precisely determined, this revenue is stated separately and excluded from the total State General Fund revenue estimates in the first table above. The value of the state liquor distribution center is estimated to be \$20.4 million, based on the King County Assessor's Office 2011 assessed value of the property. The sale of the equipment in the state liquor distribution center is estimated to be \$8 million, based on the 2010 Washington State Auditor review, which assumed the sale of \$16 million in assets would return about \$8 million. Costs to sell the state liquor distribution center are estimated to total \$1 million at the time of sale.

The initiative requires LCB to sell by public auction the right — at each state-owned store location — to operate a liquor store upon the premises without regard to the size of the premises if the applicant

otherwise qualifies for a liquor retailer license. All state-operated liquor stores are leased and cannot be transferred or assigned. In addition, of the 166 state-operated liquor stores, 127 are located within one block of a grocery store. Because these factors (location, competition and lessor) will vary by state-operated liquor store and will affect the value of each operating right, revenue generated from the auction is indeterminate and not assumed in the model.

The initiative would repeal Engrossed Substitute Senate Bill 5942 (ESSB 5942), which directed the Office of Financial Management to conduct a competitive process for the selection of a private sector entity to lease and modernize the state's liquor warehousing and distribution facilities. Under ESSB 5942, if a proposal is determined to be in the best interests of the state by the Office of Financial Management after consultation with LCB and an advisory board created through the legislation, LCB may contract with that private entity for the lease of the state's liquor warehousing and distribution facilities. Because it is not known if LCB will enter into a contract, no revenue is assumed in the model.

State and Local Expenditure Estimate Assumptions

Revenue gains will accrue to existing accounts, the largest being the State General Fund, which may be used for any governmental purpose as appropriated by the Legislature.

Washington State Lottery proceeds in excess of expenses are deposited into the State Opportunity Pathways Account to support programs in higher education and early learning. Due to the loss of some lottery product sales in state liquor stores, it is estimated that funds to this account will decrease \$1.8 million over six fiscal years.

Each county and city is required to spend 2 percent of its share of liquor revenues on alcohol and chemical dependency services, and these expenditures will increase. The additional \$10 million distributed to cities, towns, counties and border areas are for enhancing public safety programs. The remaining revenue can be used for any allowable local government purpose.

State and Local Cost Estimate Assumptions

The fiscal impact statement does not estimate state costs or state savings due to social impacts from approval of the initiative. No costs are assumed for local governments.

Liquor Control Board Costs

Estimated one-time and ongoing LCB costs are assumed to be paid by the Liquor Revolving Fund. Therefore, payment of the following costs is reflected in the State General Fund revenue estimate.

LCB ongoing costs for licensing, enforcement and administration are estimated to increase by \$350,000 for new fee-collection costs and implementing the “responsible vendor program.” No state costs from increased enforcement activities are assumed in the estimate.

Assuming a closure date of June 15, 2012, LCB will incur one-time state costs associated with managing the closure of the state liquor distribution center and state liquor stores. There will be additional one-time costs for issuing new licenses. These state costs are estimated to total \$28.7 million during FYs 2012 and 2013:

- Unemployment, sick leave and vacation buyout costs for state employees estimated at \$11.8 million.
- Information technology changes and staff to issue new licenses estimated at \$2.7 million.
- Staffing costs to coordinate the sale of existing inventory, termination of contract store leases, surplus of store fixtures and auction of state-operated store operating rights estimated at \$11 million.

- Final audits of each state and contract liquor store estimated at \$1.9 million.
- Project management and additional human resource staff estimated at \$1.3 million.

Department of Revenue Costs

The Washington State Department of Revenue will administer the collection of liquor excise tax from licensed liquor distributors and retailers. Costs include additional staff, information technology changes, rule-making and policy activities, taxpayer mailings and workshops, supplies and materials. Total one-time state costs are estimated to total \$120,100 during FY 2012. Ongoing costs are estimated to be \$38,500 each fiscal year beginning FY 2013.

State Indebtedness

There is \$5.3 million in debt service costs for a Certificate of Participation bond for the state liquor distribution center that is scheduled to be paid by Dec. 1, 2013. This one-time state cost is assumed in FY 2014.

Table 2.1 Total Estimated State General Fund Revenues

Fiscal Year	2012	2013	2014	2015	2016	2017	TOTAL
Low Markup	\$5,404,000	\$51,373,000	\$52,007,000	\$36,083,000	\$35,669,000	\$35,244,000	\$215,780,000
High Markup	\$8,777,000	\$59,054,000	\$58,372,000	\$42,164,000	\$42,204,000	\$42,260,000	\$252,831,000

Table 2.2 Total Estimated Local Government Revenues

Fiscal Year	2012	2013	2014	2015	2016	2017	TOTAL
Low Markup	\$6,012,000	\$56,913,000	\$42,500,000	\$27,973,000	\$26,757,000	\$25,492,000	\$185,647,000
High Markup	\$8,361,000	\$63,034,000	\$50,741,000	\$35,770,000	\$34,949,000	\$34,098,000	\$226,953,000

Table 2.3 Markup Assumptions

Fiscal Year	2012	2013	July 1, 2013, to Feb. 28, 2014	March 1, 2014, to June 30, 2014	2015	2016	2017
State Markup	51.9%	51.9%	39.2%	39.2%	39.2%	39.2%	39.2%
Low Markup	52%	52%	52%	47%	47%	47%	47%
High Markup	72%	72%	72%	67%	67%	67%	67%

Argument For Initiative Measure 1183

Initiative 1183 gets our state government out of the business of distributing and selling liquor

I-1183 ends Washington's outdated state liquor store monopoly and allows consumers to buy spirits at licensed retail stores, like consumers do in most other states. It allows a limited number of grocery and retail stores to get licenses to sell liquor, if approved by the Liquor Control Board, and prevents liquor sales at gas stations and convenience stores.

1183 provides vitally-needed new revenues for state and local services

Distributors and stores approved for liquor licenses will pay a percentage of their sales as license fees, generating hundreds of millions of dollars in new revenues for state and local services like education, health care and public safety.

1183 strengthens laws governing the sale of liquor

1183 doubles penalties for retailers who sell spirits to minors, ensures local input into which grocery and retail stores get liquor licenses, mandates new training programs and increases compliance requirements for retailers, and dedicates new revenues to increase funding for local police, fire, and emergency services statewide.

1183 eliminates outdated wine regulations

1183 eliminates outdated regulations that currently restrict price competition and wholesale distribution of wine in Washington. This will help small Washington wineries and lead to better selections and more competitive wine prices for consumers.

Yes on 1183 will create true competition in liquor and wine distribution and sales, strengthen liquor law enforcement, benefit Washington taxpayers and consumers, and generate vitally needed new revenues for state and local services.

Rebuttal of Argument Against

The campaign against 1183 is funded by big national liquor distributors that profit from Washington's outdated liquor monopoly. Their claims are false and self-serving. 1183 specifically prevents liquor sales at gas stations and convenience stores, doubles penalties for selling spirits to minors and generates hundreds of millions in new revenues to schools, health care, police and emergency services *without raising taxes*. That's why community leaders, law enforcement officials and taxpayer advocates support yes on 1183.

Argument Prepared by

Anthony Anton, President, Washington Restaurant Association; **Eric Robertson**, Former Captain, Washington State Patrol; **Daniel J. Evans**, Former Governor of Washington; **Cherie Myers**, Washington State Chair, Northwest Grocery Association; **Bob Edwards**, Former President, Association of Washington Cities; **John Morgan**, Winemaker/Board Member, Family Wineries of Washington State.

Contact: (800) 956-3460; info@YESon1183.com; www.YESon1183.com

Argument Against Initiative Measure 1183

Last year more than one million Washingtonians voted "no" twice to big box stores and grocery chains selling liquor. Yet despite the clear message we sent, they're back again spending millions to push I-1183. What part of "no" don't they understand?

More Consumption, More Problems

Alcohol already kills more kids than all other drugs combined. Yet 1183 allows more than four times as many liquor outlets. The Centers for Disease Control recently came out against privatization because it leads to a 48 percent or more increase in problem drinking. That means more underage drinking and crime, overburdening police and first responders.

Mini-Mart Loophole

1183 is another flawed measure designed to benefit the big chains, not the public. It gives chains an unfair competitive advantage over smaller grocers, while a major loophole written into the measure will allow mini-marts to sell liquor across much of the state. State stores have one of the best enforcement rates in the country; groceries, gas stations and mini-marts sell to teenagers one time out of four.

Higher Taxes on Consumers

The sponsors of this measure say it increases government revenue. But they do it by creating a new 27 percent tax passed on to consumers. Ask yourself: when was the last time a big corporation spent millions, *twice*, to try and save us money?

Firefighters, first responders, and law enforcement leaders oppose 1183. It's too risky, and too high a price to pay for a little convenience. Vote *no* on 1183.

Rebuttal of Argument For

The Liquor Control Board determined 1183 contains loopholes that enable mini-marts and gas stations to sell liquor. Local independent grocers oppose 1183 because it tilts the rules against them. And 1183 creates a new 27 percent hidden tax passed onto consumers, raising taxes to fund corporate profits. Four times the number of outlets is too much. 1183 is another flawed, risky initiative putting corporate profits over our safety. The responsible choice: Vote *no* 1183.

Argument Prepared by

Jim Cooper, Washington Association for Substance Abuse and Violence Prevention; **Alice Woldt**, Co-Director, Faith Action Network; **Kelly Fox**, President, Washington State Council of Firefighters; **Sharon Ness**, RN, Acute Care Nurse; **Craig Soucy**, Emergency Medical Technician, Renton Fire and Emergency Services; **Linda Thompson**, Executive Director, Greater Spokane Substance Abuse Council.

Contact: (206) 436-6535; info@protectourcommunities.com; www.protectourcommunities.com

Senate Joint Resolution

8205

Proposed to the People by the Legislature
Amendment to the State Constitution:

**The legislature
has proposed a
constitutional
amendment on
repealing article
VI, section 1A, of
the Washington
Constitution.**

This amendment would remove an inoperative provision from the state constitution regarding the length of time a voter must reside in Washington to vote for president and vice-president.

Should this constitutional amendment be:

☐ **Approved**

☐ **Rejected**

Votes cast by the 2011 Legislature on final passage:
Senate: Yeas, 46; Nays, 0; Absent, 0; Excused, 3
House: Yeas, 92; Nays, 0; Absent, 0; Excused, 5



**You are voting to Approve or Reject
the bill passed by the Legislature**

Approve - you *favor* the bill passed
by the Legislature.

Reject - you *don't favor* the bill passed
by the Legislature.

The Official Ballot Title and the Explanatory Statement were written by the Attorney General as required by law. The Secretary of State is not responsible for the content of arguments or statements (WAC 434-381-180). The complete text of Senate Joint Resolution 8205 is located at the end of this pamphlet.

Explanatory Statement

Written by the Office of the Attorney General

The Constitutional Provision as it Presently Exists

The Washington Constitution currently contains two provisions relating to the length of time that a person must be a resident of Washington in order to vote. One of those provisions, article VI, section 1A, is inoperative because of court decisions and a more recent amendment to the other provision, article VI, section 1.

Article VI, section 1, provides that all citizens who are at least eighteen years old are entitled to vote if they have lived in the state, county, and precinct for at least 30 days before the election. The second provision, article VI, section 1A, states that all citizens of the United States who become residents of Washington during a presidential election year may vote for the offices of president and vice president if they resided in Washington for at least 60 days before the election.

The voters added article VI, section 1A, to the state constitution in 1966 as Amendment 46. At that time, article VI, section 1, of the state constitution required voters to reside in the state for a full year prior to voting and, in addition, required that they live in the county for 90 days and the city, town, ward, or precinct for 30 days before the election. Therefore, when section 1A was added to the constitution in 1966, it provided a more lenient residency requirement so that new residents of the state could vote for president and vice president after a shorter, 60-day period of residency.

After the voters approved adding section 1A to the state constitution, the United States Supreme Court ruled that any requirement that voters live in a particular place longer than 30 days in order to vote is unconstitutional. Based upon that holding, the Washington Supreme Court held that the 90-day county and one-year state residency requirements stated in article VI, section 1, were unconstitutional. Washington voters then approved amending article VI, section 1, to read as it does today in order to conform to the court

decisions, but this amendment did not repeal or change article VI, section 1A. Washington law therefore currently entitles all otherwise-qualified citizens to vote if they have resided within the state, county, and precinct for at least 30 days.

Article VI, section 1A, remains part of the state constitution, but has no operative effect.

The Effect of the Proposed Amendment, if Approved

This measure proposes to amend the state constitution to remove article VI, section 1A, from the state constitution. The state constitution would continue to entitle all otherwise-eligible citizens of the United States to vote if they have resided in Washington, and in their county and precinct, for at least 30 days before the election.

Fiscal Impact Statement

Not required by law



Address Confidentiality Program

If you are a victim of domestic violence, sexual assault, trafficking, and/or stalking, or if you are a criminal justice participant who is a target of felony harassment because of the work you do, and have chosen not to register to vote because you are afraid your perpetrator will locate you through voter registration records, the Office of the Secretary of State has a program that might be able to help you.

The Address Confidentiality Program (ACP) works together with community domestic violence and sexual assault programs in an effort to keep crime victims safer.

The ACP provides participants with a substitute address that can be used when conducting business with state or local government agencies. ACP participants are eligible to register as Protected Records Voters, meaning the registration information is not public record. All ACP participants must be referred to the program by a local domestic violence or sexual assault advocate who can help develop a comprehensive safety plan.

Need more information? Call the ACP toll-free at (800) 822-1065 or visit www.sos.wa.gov/acp.

Argument For Senate Joint Resolution 8205

SJR 8205 fixes conflicting voter residency requirements in the Washington Constitution. Article VI, Section 1 of the Washington State Constitution allows a U.S. citizen to vote in all elections after they have resided in the state for *30 days*. Article VI, Section 1A of the Washington State Constitution requires that a U.S. citizen reside in the State for *60 days* before they can vote for President. While the courts have held that the shorter 30 day residency requirement applies to presidential primaries, there is a need to clean up our constitution and make its provisions consistent. SJR 8205 fixes this conflict by removing Section 1A and the conflicting 60 day residency requirement. This clarifies that the shorter 30 day voter residency requirement is the constitutional standard for all elections in the state, including the presidential election. Please vote to “approve” SJR 8205 to ensure that our state constitution is consistent.

Rebuttal of Argument Against

No information submitted

Argument Prepared by

Mike Carrell, State Senator, 28th Legislative District; **Sam Hunt**, State Representative, 22nd Legislative District

Contact: (253) 581-2859; mikecarrell@hotmail.com

Argument Against Senate Joint Resolution 8205

No one consented to write an argument against this ballot measure.

Rebuttal of Argument For

No information submitted

Argument Prepared by

No information submitted

Contact: No information submitted

Senate Joint Resolution

8206

Proposed to the People by the Legislature
Amendment to the State Constitution:

**The legislature
has proposed a
constitutional
amendment on the
budget stabilization
account maintained in
the state treasury.**

This amendment would require the legislature to transfer additional moneys to the budget stabilization account in each fiscal biennium in which the state has received "extraordinary revenue growth," as defined, with certain limitations.

Should this constitutional amendment be:

☐ **Approved**

☐ **Rejected**

Votes cast by the 2011 Legislature on final passage:
Senate: Yeas, 47; Nays, 0; Absent, 0; Excused, 2
House: Yeas, 76; Nays, 10; Absent, 0; Excused, 12



**You are voting to Approve or Reject
the bill passed by the Legislature**

Approve - you *favor* the bill passed
by the Legislature.

Reject - you *don't favor* the bill passed
by the Legislature.

The Official Ballot Title and the Explanatory Statement were written by the Attorney General as required by law. The Secretary of State is not responsible for the content of arguments or statements (WAC 434-381-180). The complete text of Senate Joint Resolution 8206 is located at the end of this pamphlet.

Explanatory Statement

Written by the Office of the Attorney General

The Constitutional Provision as it Presently Exists

Article VII, section 12 of the Washington Constitution requires a budget stabilization account to be maintained in the state treasury. By the end of each fiscal year (June 30 of each year), the legislature must transfer to the budget stabilization account an amount equal to one percent of the general state revenues for that fiscal year. The legislature may approve the transfer of additional amounts. "General state revenues" means all state revenues that are not derived from a state undertaking or dedicated to a particular purpose, as set forth in article VIII, section 1 of the Washington Constitution.

Article VII, section 12 also authorizes the legislature to withdraw money from the budget stabilization account. The legislature may do so by majority vote in two situations: (1) during a fiscal year in which the governor declares a state of emergency in response to a catastrophic event that requires government action to protect life or public safety; or (2) in a fiscal year for which the forecasted state employment growth is estimated to be less than one percent. In addition, at any time the balance in the budget stabilization account exceeds ten percent of estimated general state revenues for that fiscal year, the legislature by majority vote may transfer the amount in excess of ten percent to the education construction fund. Otherwise, a three-fifths vote of the legislature is required to withdraw or transfer money from the budget stabilization account. All relevant estimates of employment and revenue are made by the state economic and revenue forecast council.

The Effect of the Proposed Amendment, if Approved

The proposed amendment to article VII, section 12 would require additional revenue to be transferred to the budget stabilization account in any fiscal biennium in which there has been

“extraordinary revenue growth,” with certain limitations. “Extraordinary revenue growth” is defined by reference to a baseline consisting of the average biennial percentage growth in general state revenues over the preceding five biennia. Any growth in general state revenue that is more than one-third greater than the baseline is defined as “extraordinary revenue growth.” In determining whether “extraordinary revenue growth” has occurred, historical general state revenues must be adjusted to reflect statutory changes to revenue dedication.

The legislature would be required to transfer three-fourths of that “extraordinary revenue growth” to the budget stabilization account, subject to two limitations. First, no transfer of “extraordinary revenue growth” is required where annual average state employment growth during the preceding fiscal biennium averaged less than one percent per fiscal year. Second, no transfer of “extraordinary revenue growth” is required unless the transfer would exceed the amount already transferred to the budget stabilization account during the fiscal biennium, under present law. The deadline for transferring the additional revenue would be the end of each fiscal biennium (June 30 in odd-numbered years).

No change would be made to the legislature’s authority to withdraw money from the budget stabilization account.

Fiscal Impact Statement

Not required by law

Argument For Senate Joint Resolution 8206

Overwhelming Bipartisan Support for Strengthening Voter-Approved Rainy Day Fund

In 2007, voters approved the creation of a constitutionally-protected rainy day fund that requires state government to set aside 1% of revenues annually for hard times. SJR 8206, a bipartisan measure, strengthens this fund by requiring a portion of “extraordinary” revenue – that which exceeds 133% of historical average growth – be saved, rather than spent.

Use Good Economic Times to Prepare for Bad

State government should save more money during good times, like the housing boom of several years ago when revenue grew at more than twice the historical average. Saving more of this windfall would have better prepared the state for the downturn that followed.

Approving SJR 8206 will help: *Build stronger reserves*, leaving the state better prepared for difficult economic times; and *Keep spending at a more sustainable level*, limiting expansions based on unexpected or windfall revenue.

Protect Vital Services

A robust rainy day fund protects crucial state services like education and healthcare from deep cuts in bad economic times like we are experiencing now. Putting extraordinary revenue in the fund provides this cushion.

Plan for the Future

Just as your family would not take on unsustainable commitments if you received an unexpected windfall, neither should Olympia. SJR 8206 puts windfall revenue in the rainy day fund for extraordinary use, protecting state services from equally unexpected downturns. Help put an end to roller coaster budgeting – Vote yes on SJR 8206!

Rebuttal of Argument Against

Opponents argue for permitting budgets to be built on unsustainable revenue spikes. This is simply not prudent. Extraordinary revenue spikes should be saved in the constitutionally-protected rainy day fund, not immediately spent. This will prevent unsustainable spending increases and help protect vital services when times get tough. Passed with overwhelming bipartisan support, SJR 8206 is prudent, thoughtful policy aimed at better management and control of state spending. *End roller coaster budgeting - please vote yes!*

Argument Prepared by

Joseph Zarelli, State Senator, Republican, Ridgefield, 18th Legislative District; **Ross Hunter**, State Representative, Democrat, Medina, 48th Legislative District; **James McIntire**, Washington State Treasurer.

Contact: No information submitted

Argument Against Senate Joint Resolution 8206

In 2007 voters amended the constitution to create a “rainy day fund” as a way to force the legislature to save money for bad times. 1% of general funds go into savings for hard times (currently almost \$300 million). It’s working well.

8206 requires *more* than the 1% that voters approved - it would *also* require that “extraordinary revenues” go into savings. While it sounds like a good idea to save more – the result is people paying taxes and getting nothing for it, except a bigger savings account.

Budget cuts from hard times couldn’t be backfilled with this money, so people would have to live with fewer teachers and nurses, less fish and wildlife enforcement, less clean air monitoring, fewer roads and job creation, all while there was money in the bank waiting for the next recession.

Many people hate it when their bank makes them keep a minimum balance on hand when bills are due. 8206 would effectively raise that minimum balance so class sizes get bigger, prisoners get released early, there is less law enforcement, and there is less help available to people in need.

8206 decreases the amount of taxpayer money that can be used for things taxpayers want and need (and paid for) so it can sit in an already existing rainy day fund with plenty of money in it. It means budget cuts become permanent and you aren’t getting the government you paid for. Please *vote no*.

Rebuttal of Argument For

The existing rainy day fund is \$300 million worth of proof that the state is using good economic times to plan for the future. No family puts “extra” money in their savings account when there are still important needs to be met, and government shouldn’t either. Continue the constitutionally protected savings account, *and* allow other revenue to be used for backfilling budget cuts made during the recession. *Please vote no* on SJR 8206.

Argument Prepared by

Zack Hudgins, State Representative, 11th District;
Sam Hunt, State Representative, 22nd District;
Mary Lou Dickerson, State Representative, 36th District;
Bob Hasegawa, State Representative, 11th District;
Jamie Pedersen, State Representative, 43rd District;
Jeff Johnson, President, Washington State Labor Council, AFL-CIO.

Contact: No information submitted

Civics pop quiz!

Put your civic knowledge to the test, or challenge friends and family.

1. Who elects the President of the United States?
2. What do we call changes to the Constitution?
3. Name two U.S. Senators from your state.
4. How many voting members are in the U.S. House of Representatives?
5. Who said, "Give me liberty or give me death?"
6. Who was the main writer of the Declaration of Independence?
7. When was the Declaration of Independence adopted?
8. What did the Emancipation Proclamation do?
9. Name the amendments that guarantee voting rights.
10. What kind of government does the United States have?



Because We Are Washington
by Bronte, age 15

Answers

1. The Electoral College
2. Amendments
3. Patty Murray and Maria Cantwell
4. 435
5. Patrick Henry
6. Thomas Jefferson
7. July 4, 1776
8. Abolished slavery
9. The 15th, 19th, 24th and 26th amendments
10. A republic



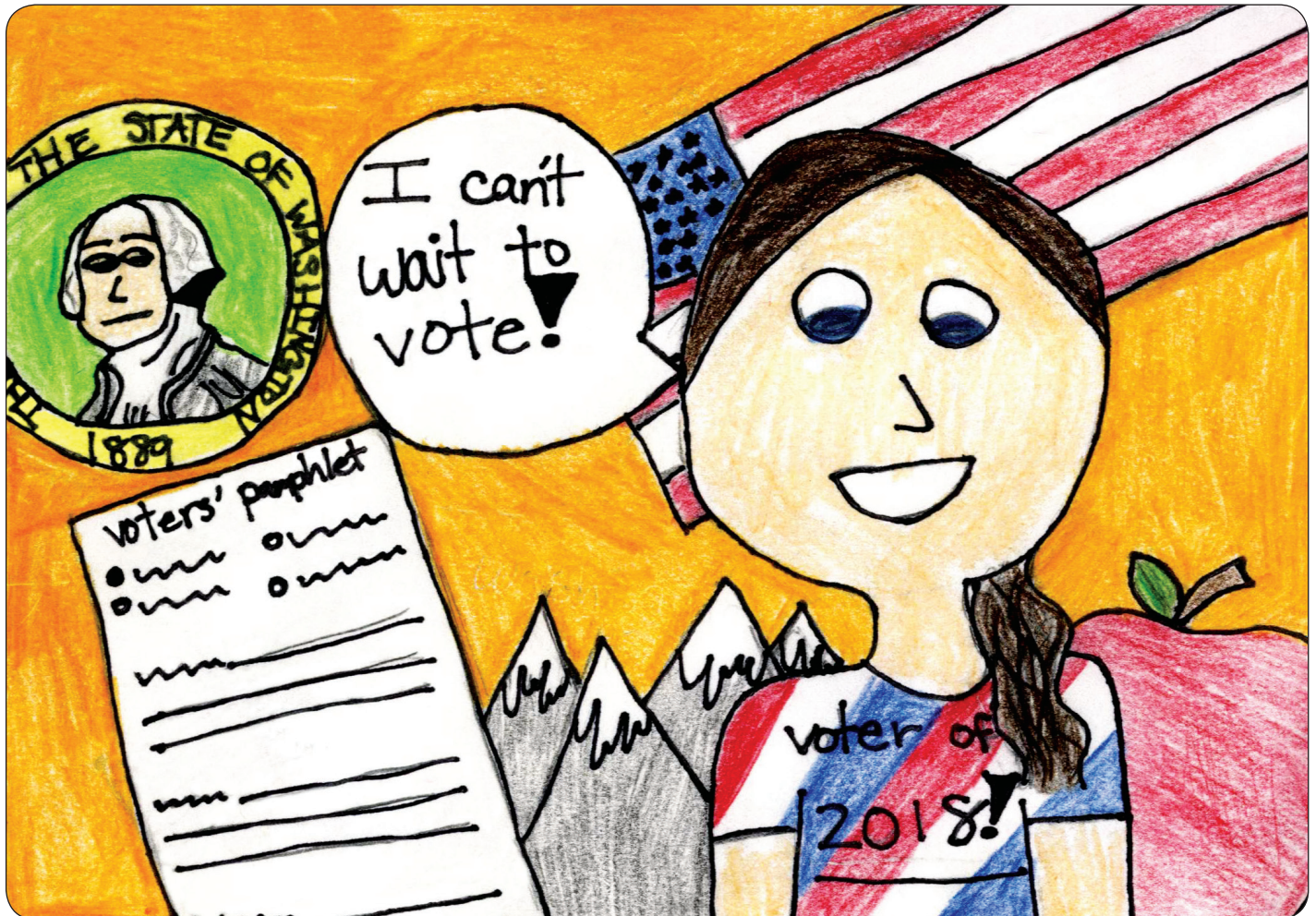
The top student artist is recognized by Secretary Reed at a surprise assembly.

Kids' Art Contest

Students in grades 4 and 5, enter your voting-themed artwork into the Voters' Pamphlet Art Contest. The winner will be featured in the 2012 statewide Voters' Pamphlet.

For contest rules, visit the kids' page at www.vote.wa.gov.

The deadline is April 16, 2012.



I'm a future voter!

by Kennedy Kerr, 5th grader at St. Louise Parish School
Winner of the 2011 Voters' Pamphlet Art Contest

Complete Text

Initiative Measure 1125

PROTECT GAS-TAXES AND TOLL-REVENUES ACT

PROTECT THE 18TH AMENDMENT TO WASHINGTON'S CONSTITUTION

AN ACT Relating to transportation; amending RCW 47.56.030, 47.56.810, 47.56.820, 47.56.830, and 47.56.790; adding new sections to chapter 46.68; and creating new sections.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

POLICIES AND PURPOSES

NEW SECTION. Sec. 1. The 18th Amendment to the Washington Constitution protects gas taxes and toll revenues. But politicians and special interest groups have been working for years to sidestep the 18th Amendment's protections and divert those revenues to non-transportation purposes. This measure protects our gas taxes and toll revenues from a legislative raid by giving voters the chance to reaffirm their support for the 18th Amendment to the Washington Constitution. This measure would:

(1) Prohibit state government from diverting gas taxes and toll revenues in the motor vehicle fund or other funds to the general fund or other funds and used for non-transportation purposes;

(2) Prohibit state government from transferring or using gas-tax-funded or toll-revenue-funded lanes on state highways for non-highway purposes; and

(3) Require tolls to be dedicated to the project they're paying for, ending such tolls when the project is completed, and only allowing tolls to be used for purposes consistent with the 18th Amendment to the Washington Constitution. Tolls on a project must be spent on that project and may not be diverted and spent on other things (allowing tolls to be imposed on anyone and spent on anything stops them from being tolls and makes them into de facto taxes).

GAS TAXES AND TOLL REVENUES CANNOT BE DIVERTED TO THE GENERAL FUND OR OTHER FUNDS AND USED FOR NON-TRANSPORTATION PURPOSES

NEW SECTION. Sec. 2. State government, the department of transportation, and other agencies may not transfer revenues in the motor vehicle fund or any toll fund to the general fund or other funds and used for non-transportation purposes.



How do I read measure text?

Any language in double parentheses with a line through it is existing state law and will be taken out of the law if the measure is approved by voters.

Any underlined language or new sections do not appear in current state law but will be added to the law if the measure is approved by voters.

GAS-TAX-FUNDED OR TOLL-REVENUE-FUNDED LANES ON STATE HIGHWAYS CANNOT BE TRANSFERRED OR USED FOR NON-HIGHWAY PURPOSES

NEW SECTION. Sec. 3. State government, the department of transportation, and other agencies may not transfer or use gas-tax-funded or toll-funded lanes on state highways for non-highway purposes.

TOLLS ON A PROJECT MUST BE DEDICATED TO THAT PROJECT, ENDED WHEN THE PROJECT IS COMPLETED, AND USED ONLY FOR PURPOSES CONSISTENT WITH THE 18TH AMENDMENT TO THE WASHINGTON CONSTITUTION

Sec. 4. RCW 47.56.030 and 2008 c 122 s 8 are each amended to read as follows:

(1) Except as permitted under chapter 47.29 or 47.46 RCW:

(a) Unless otherwise delegated, and subject to RCW 47.56.820, the department of transportation shall have full charge of the planning, analysis, and construction of all toll bridges and other toll facilities including the Washington state ferries, and the operation and maintenance thereof.

(b) The ((transportation commission)) legislature, subject to the requirements of RCW 43.135.055 as amended by Initiative Measure No. 1053, shall determine and establish the tolls and charges thereon. Except for Washington state ferries toll facilities, revenue from tolls or charges on a highway, freeway, road, bridge, or street may only be used for the cost of construction and capital improvements to that particular highway, freeway, road, bridge, or street and all revenues from such tolls may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.

(c) Unless otherwise delegated, and subject to RCW 47.56.820, the department shall have full charge of planning, analysis, and design of all toll facilities. The department may conduct the planning, analysis, and design of toll facilities as necessary to support the legislature's consideration of tolls ((authorization)).

(d) The department shall utilize and administer toll collection systems that are simple, unified, and interoperable. To the extent practicable, the department shall avoid the use of toll booths. The department shall set the statewide standards and protocols for all toll facilities within the state, including those authorized by local authorities.

(e) Except as provided in this section, the department shall proceed with the construction of such toll bridges and other facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under (e)(i) and (ii) of this subsection:

(i) Emergency contracts, in order to make repairs to ferries or ferry terminal facilities or removal of such facilities whenever continued use of ferries or ferry terminal facilities constitutes a real or immediate danger to the traveling public or precludes prudent use of such ferries or facilities; and

(ii) Single source contracts for vessel dry dockings, when there is clearly and legitimately only one available bidder to conduct dry dock-related work for a specific class or classes of vessels. The contracts may be entered into for a single vessel dry docking or for multiple vessel dry dockings for a period not to exceed two years.

(2) The department shall proceed with the procurement of materials, supplies, services, and equipment needed for the support, maintenance, and use of a ferry, ferry terminal, or other facility operated by Washington state ferries, in accordance with chapter 43.19 RCW except as follows:

(a) When the secretary of the department of transportation determines in writing that the use of invitation for bid is either not practicable or not advantageous to the state and it may be necessary to make competitive evaluations, including technical or performance evaluations among acceptable proposals to complete the contract award, a contract may be entered into by use of a competitive sealed proposals method, and a formal request for proposals solicitation. Such formal request for proposals solicitation shall include a functional description of the needs and requirements of the state and the significant factors.

(b) When purchases are made through a formal request for proposals solicitation the contract shall be awarded to the responsible proposer whose competitive sealed proposal is determined in writing to be the most advantageous to the state taking into consideration price and other evaluation factors set forth in the request for proposals. No significant factors may be used in evaluating a proposal that are not specified in the request for proposals. Factors that may be considered in evaluating proposals include but are not limited to: Price; maintainability; reliability; commonality; performance levels; life cycle cost if applicable under this section; cost of transportation or delivery; delivery schedule offered; installation cost; cost of spare parts; availability of parts and service offered; and the following:

- (i) The ability, capacity, and skill of the proposer to perform the contract or provide the service required;
- (ii) The character, integrity, reputation, judgment, experience, and efficiency of the proposer;
- (iii) Whether the proposer can perform the contract within the time specified;
- (iv) The quality of performance of previous contracts or services;
- (v) The previous and existing compliance by the proposer with laws relating to the contract or services;
- (vi) Objective, measurable criteria defined in the request for proposal. These criteria may include but are not limited to items such as discounts, delivery costs, maintenance services costs, installation costs, and transportation costs; and
- (vii) Such other information as may be secured having a bearing on the decision to award the contract.

(c) When purchases are made through a request for proposal process, proposals received shall be evaluated based on the evaluation factors set forth in the request for proposal. When issuing a request for proposal for the procurement of propulsion equipment or systems that include an engine, the request for proposal must specify the use of a life cycle cost analysis that includes an evaluation of fuel efficiency. When a life cycle cost analysis is used, the life cycle cost of a proposal shall be given at least the same relative importance as the initial price element specified in the request of proposal documents. The department may reject any and all proposals received. If the proposals are not rejected, the award shall be made to the proposer whose proposal is most advantageous to the department, considering price and the other evaluation factors set forth in the request for proposal.

Sec. 5. RCW 47.56.810 and 2008 c 122 s 3 are each amended to read as follows:

The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise:

(1) "Tolling authority" means the governing body that is legally empowered to review and adjust toll rates. ~~((Unless otherwise delegated, the transportation commission))~~
As required by RCW 43.135.055 as amended by Initiative

Measure No. 1053, the legislature is the tolling authority for all state highways.

(2) "Eligible toll facility" or "eligible toll facilities" means portions of the state highway system specifically identified by the legislature including, but not limited to, transportation corridors, bridges, crossings, interchanges, on-ramps, off-ramps, approaches, bistate facilities, and interconnections between highways.

(3) "Toll revenue" or "revenue from an eligible toll facility" means toll receipts, all interest income derived from the investment of toll receipts, and any gifts, grants, or other funds received for the benefit of the eligible toll facility that may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.

Sec. 6. RCW 47.56.820 and 2008 c 122 s 4 are each amended to read as follows:

(1) ~~((Unless otherwise delegated))~~ As required by RCW 43.135.055 as amended by Initiative Measure No. 1053, only the legislature may authorize the imposition of tolls on eligible toll facilities.

(2) All revenue from an eligible toll facility must be used only to construct, improve, preserve, maintain, manage, or operate the eligible toll facility on or in which the revenue is collected subject to the limitations in RCW 47.56.830. Expenditures of toll revenues are subject to appropriation and must be made only for the following purposes as long as the expenditure is consistent with the eighteenth amendment to the Washington Constitution:

(a) To cover the operating costs of the eligible toll facility, including necessary maintenance, preservation, administration, and toll enforcement by public law enforcement within the boundaries of the facility;

(b) To meet obligations for the repayment of debt and interest on the eligible toll facilities, and any other associated financing costs including, but not limited to, required reserves and insurance;

(c) To meet any other obligations to provide funding contributions for any projects or operations on the eligible toll facilities;

(d) To provide for the operations of conveyances of people or goods; or

(e) For any other improvements to the eligible toll facilities.

Sec. 7. RCW 47.56.830 and 2008 c 122 s 5 are each amended to read as follows:

Any proposal for the establishment of eligible toll facilities shall consider the following policy guidelines:

(1) Overall direction. Washington should use tolling to encourage effective use of the transportation system and provide a source of transportation funding.

(2) When to use tolling. Tolling should be used when it can be demonstrated to contribute a significant portion of the cost of a project that cannot be funded solely with existing sources or optimize the performance of the transportation system. Such tolling should, in all cases, be fairly and equitably applied in the context of the statewide transportation system and not have significant adverse impacts through the diversion of traffic to other routes that cannot otherwise be reasonably mitigated. Such tolling should also consider relevant social equity, environmental, and economic issues, and should be directed at making progress toward the state's greenhouse gas reduction goals.

(3) Use of toll revenue. All revenue from an eligible toll facility must be used only to improve, preserve, manage, or operate the eligible toll facility on or in which the

revenue is collected as long as the revenues are spent on purposes consistent with the eighteenth amendment to the Washington Constitution. Additionally, toll revenue should provide for and encourage the inclusion of recycled and reclaimed construction materials.

(4) Setting toll rates. Toll rates must be set by the legislature as required by RCW 43.135.055 as amended by Initiative Measure No. 1053, must be uniform and consistent, ((which)) may not include variable pricing, and must be set to meet anticipated funding obligations. To the extent possible, the toll rates should be set to optimize system performance, recognizing necessary trade-offs to generate revenue.

(5) Duration of toll collection. ~~((Because transportation infrastructure projects have costs and benefits that extend well beyond those paid for by initial construction funding,)) Tolls on future toll facilities ((may remain in place to fund additional capacity, capital rehabilitation, maintenance, management, and operations, and to optimize performance of the system)) must end after the cost of the project is paid.~~

(6) Dedication of tolls. As referenced in RCW 47.56.030, tolls on a project must be spent on that project and may not be diverted elsewhere and all revenues from such tolls may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.

Sec. 8. RCW 47.56.790 and 2008 c 270 s 5 are each amended to read as follows:

The department shall work with the federal highways administration to determine the necessary actions for receiving federal authorization to toll the Interstate 90 floating bridge. The department must periodically report the status of those discussions to the governor and the joint transportation committee. Toll revenue imposed and collected on the Interstate 90 floating bridge must be used exclusively for toll facilities and capital improvements to Interstate 90 and may only be used for purposes consistent with the eighteenth amendment to the Washington Constitution.

MISCELLANEOUS

NEW SECTION. Sec. 9. The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. Sec. 10. 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. 11. This act is called the "Protect Gas-Taxes and Toll-Revenues Act – Protect the 18th Amendment to Washington's Constitution."

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Complete Text

Initiative Measure 1163

AN ACT Relating to restoring long-term care services for eligible elderly and persons with disabilities; adding new sections to chapter 74.39A RCW; adding new sections to chapter 18.88B RCW; creating new sections; repealing RCW 18.88B.020, 18.88B.030, 18.88B.040, 74.39A.009, 74.39A.050, 74.39A.055, 74.39A.073, 74.39A.075, 74.39A.085, 74.39A.260, 74.39A.310, 74.39A.330, 74.39A.340, and 74.39A.350; providing an effective date; and providing contingent effective dates.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. It is the intent of the people through this initiative to protect vulnerable elderly and people with disabilities by reinstating the requirement that all long-term care workers obtain criminal background checks and adequate training. The people of the state of Washington find as follows:

(1) The state legislature proposes to eliminate the requirement that long-term care workers obtain criminal background checks and adequate training, which would jeopardize the safety and quality care of vulnerable elderly and persons with disabilities. Should the legislature take this action, this initiative will reinstate these critical protections for vulnerable elderly and persons with disabilities; and

(2) Taxpayers' investment will be protected by requiring regular program audits, including fraud investigations, and capping administrative expenses.

PART I PROTECTING VULNERABLE ELDERLY AND PERSONS WITH DISABILITIES BY REINSTATING CRIMINAL BACKGROUND CHECK AND TRAINING REQUIREMENTS FOR LONG-TERM CARE WORKERS

NEW SECTION. Sec. 101. A new section is added to chapter 74.39A RCW to read as follows:

(1) All long term care workers for the elderly or persons with disabilities hired after January 1, 2012, shall be screened through state and federal background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable persons. These background checks shall include checking against the federal bureau of investigation fingerprint identification records system and against the national sex offenders registry or their successor programs. The department shall require these long-term care workers to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation.

(2) To allow the department of health to satisfy its certification responsibilities under chapter 18.88B RCW, the department shall share state and federal background check results with the department of health. Neither department may share the federal background check results with any other state agency or person.

(3) The department shall not pass on the cost of these criminal background checks to the workers or their employers.

(4) The department shall adopt rules to implement the provisions of this section by August 1, 2010.

NEW SECTION. Sec. 102. A new section is added to chapter 74.39A RCW to read as follows:

The department must perform criminal background checks for individual providers and prospective individual providers and ensure that the authority has ready access to any long-term care abuse and neglect registry used by the department. Individual providers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

NEW SECTION. Sec. 103. A new section is added to chapter 18.88B RCW to read as follows:

(1) Effective January 1, 2011, except as provided in RCW 18.88B.040, the department of health shall require that any person hired as a long-term care worker for the elderly or persons with disabilities must be certified as a home care aide within one hundred fifty days from the date of being hired.

(2) Except as provided in RCW 18.88B.040, certification as a home care aide requires both completion of seventy-five hours of training and successful completion of a certification examination pursuant to RCW 74.39A.073 and 18.88B.030.

(3) No person may practice or, by use of any title or description, represent himself or herself as a certified home care aide without being certified pursuant to this chapter.

(4) The department of health shall adopt rules by August 1, 2010, to implement this section.

NEW SECTION. Sec. 104. A new section is added to chapter 18.88B RCW to read as follows:

(1) Effective January 1, 2011, except as provided in RCW 18.88B.040, the department of health shall require that all long-term care workers successfully complete a certification examination. Any long-term care worker failing to make the required grade for the examination will not be certified as a home care aide.

(2) The department of health, in consultation with consumer and worker representatives, shall develop a home care aide certification examination to evaluate whether an applicant possesses the skills and knowledge necessary to practice competently. Unless excluded by RCW 18.88B.040 (1) and (2), only those who have completed the training requirements in RCW 74.39A.073 shall be eligible to sit for this examination.

(3) The examination shall include both a skills demonstration and a written or oral knowledge test. The examination papers, all grading of the papers, and records related to the grading of skills demonstration shall be preserved for a period of not less than one year. The department of health shall establish rules governing the number of times and under what circumstances individuals who have failed the examination may sit for the examination, including whether any intermediate remedial steps should be required.

(4) All examinations shall be conducted by fair and wholly impartial methods. The certification examination shall be administered and evaluated by the department of health or by a contractor to the department of health that is neither an employer of long term care workers or private contractors providing training services under this chapter.

(5) The department of health has the authority to:

(a) Establish forms, procedures, and examinations necessary to certify home care aides pursuant to this chapter;

(b) Hire clerical, administrative, and investigative staff as needed to implement this section;

(c) Issue certification as a home care aide to any applicant who has successfully completed the home care aide examination;

(d) Maintain the official record of all applicants and persons with certificates;

(e) Exercise disciplinary authority as authorized in chapter 18.130 RCW; and

(f) Deny certification to applicants who do not meet training, competency examination, and conduct requirements for certification.

(6) The department of health shall adopt rules by August 1, 2010, that establish the procedures, including criteria for reviewing an applicant's state and federal background checks, and examinations necessary to carry this section into effect.

NEW SECTION. Sec. 105. A new section is added to chapter 18.88B RCW to read as follows:

The following long-term care workers are not required to become a certified home care aide pursuant to this chapter.

(1) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary of health, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary of health determines that the circumstances do not require certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(2) A person already employed as a long term care worker prior to January 1, 2011, who completes all of his or her training requirements in effect as of the date he or she was hired, is not required to obtain certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(3) All long-term care workers employed by supported living providers are not required to obtain certification under this chapter.

(4) An individual provider caring only for his or her biological, step, or adoptive child or parent is not required to obtain certification under this chapter.

(5) Prior to June 30, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month is not required to obtain certification under this chapter.

(6) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.073

may not be prohibited from enrolling in training pursuant to that section.

(7) The department of health shall adopt rules by August 1, 2010, to implement this section.

NEW SECTION. Sec. 106. A new section is added to chapter 74.39A RCW to read as follows:

The department's system of quality improvement for long-term care services shall use the following principles, consistent with applicable federal laws and regulations:

(1) The system shall be client-centered and promote privacy, independence, dignity, choice, and a home or home-like environment for consumers consistent with chapter 392, Laws of 1997.

(2) The goal of the system is continuous quality improvement with the focus on consumer satisfaction and outcomes for consumers. This includes that when conducting licensing or contract inspections, the department shall interview an appropriate percentage of residents, family members, resident case managers, and advocates in addition to interviewing providers and staff.

(3) Providers should be supported in their efforts to improve quality and address identified problems initially through training, consultation, technical assistance, and case management.

(4) The emphasis should be on problem prevention both in monitoring and in screening potential providers of service.

(5) Monitoring should be outcome based and responsive to consumer complaints and based on a clear set of health, quality of care, and safety standards that are easily understandable and have been made available to providers, residents, and other interested parties.

(6) Prompt and specific enforcement remedies shall also be implemented without delay, pursuant to RCW 74.39A.080, RCW 70.128.160, chapter 18.51 RCW, or chapter 74.42 RCW, for providers found to have delivered care or failed to deliver care resulting in problems that are serious, recurring, or uncorrected, or that create a hazard that is causing or likely to cause death or serious harm to one or more residents. These enforcement remedies may also include, when appropriate, reasonable conditions on a contract or license. In the selection of remedies, the safety, health, and well-being of residents shall be of paramount importance.

(7) All long term care workers shall be screened through background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable persons. Long-term care workers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055. This information will be shared with the department of health in accordance with RCW 74.39A.055 to advance the purposes of chapter 2, Laws of 2009.

(8) No provider, or its staff, or long term care worker, or prospective provider or long term care worker, with a stipulated finding of fact, conclusion of law, an agreed order, or finding of fact, conclusion of law, or final order issued by a disciplining authority, a court of law, or entered into a state registry finding him or her guilty of abuse, neglect, exploitation, or abandonment of a minor or a vulnerable adult as defined in chapter 74.34 RCW shall be employed in the care of and have unsupervised access to vulnerable adults.

(9) The department shall establish, by rule, a state registry which contains identifying information about long term care workers identified under this chapter who have substantiated findings of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult as defined in RCW 74.34.020. The rule must include disclosure, disposition of findings, notification, findings of fact, appeal rights, and fair hearing requirements. The department shall disclose, upon request, substantiated findings of abuse, neglect, financial exploitation, or abandonment to any person so requesting this information. This information will also be shared with the department of health to advance the purposes of chapter 2, Laws of 2009.

(10) Until December 31, 2010, individual providers and home care agency providers must satisfactorily complete department-approved orientation, basic training, and continuing education within the time period specified by the department in rule. The department shall adopt rules by March 1, 2002, for the implementation of this section. The department shall deny payment to an individual provider or a home care provider who does not complete the training requirements within the time limit specified by the department by rule.

(11) Until December 31, 2010, in an effort to improve access to training and education and reduce costs, especially for rural communities, the coordinated system of long-term care training and education must include the use of innovative types of learning strategies such as internet resources, videotapes, and distance learning using satellite technology coordinated through community colleges or other entities, as defined by the department.

(12) The department shall create an approval system by March 1, 2002, for those seeking to conduct department-approved training.

(13) The department shall establish, by rule, background checks and other quality assurance requirements for long term care workers who provide in-home services funded by medicaid personal care as described in RCW 74.09.520, community options program entry system waiver services as described in RCW 74.39A.030, or chore services as described in RCW 74.39A.110 that are equivalent to requirements for individual providers. Long-term care workers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

(14) Under existing funds the department shall establish internally a quality improvement standards committee to monitor the development of standards and to suggest modifications.

(15) Within existing funds, the department shall design, develop, and implement a long-term care training program that is flexible, relevant, and qualifies towards the requirements for a nursing assistant certificate as established under chapter 18.88A RCW. This subsection does not require completion of the nursing assistant certificate training program by providers or their staff. The long-term care teaching curriculum must consist of a fundamental module, or modules, and a range of other available relevant training modules that provide the caregiver with appropriate options that assist in meeting the resident's care needs. Some of the training modules may include, but are not limited to, specific training on the special care needs of persons with developmental disabilities, dementia, mental illness, and the care needs of the elderly. No less than one training

module must be dedicated to workplace violence prevention. The nursing care quality assurance commission shall work together with the department to develop the curriculum modules. The nursing care quality assurance commission shall direct the nursing assistant training programs to accept some or all of the skills and competencies from the curriculum modules towards meeting the requirements for a nursing assistant certificate as defined in chapter 18.88A RCW. A process may be developed to test persons completing modules from a caregiver's class to verify that they have the transferable skills and competencies for entry into a nursing assistant training program. The department may review whether facilities can develop their own related long-term care training programs. The department may develop a review process for determining what previous experience and training may be used to waive some or all of the mandatory training. The department of social and health services and the nursing care quality assurance commission shall work together to develop an implementation plan by December 12, 1998.

NEW SECTION. Sec. 107. A new section is added to chapter 74.39A RCW to read as follows:

(1) Effective January 1, 2011, except as provided in RCW 18.88B.040, all persons employed as long term care workers for the elderly or persons with disabilities must meet the minimum training requirements in this section within one hundred twenty calendar days of employment.

(2) All persons employed as long term care workers must obtain seventy five hours of entry level training approved by the department. A long-term care worker must accomplish five of these seventy five hours before becoming eligible to provide care.

(3) Training required by subsection (4)(c) of this section will be applied towards training required under RCW 18.20.270 or 70.128.230 as well as any statutory or regulatory training requirements for long-term care workers employed by supportive living providers.

(4) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The seventy five hours of entry-level training required shall be as follows:

(a) Before a long-term care worker is eligible to provide care, he or she must complete two hours of orientation training regarding his or her role as caregiver and the applicable terms of employment;

(b) Before a long-term care worker is eligible to provide care, he or she must complete three hours of safety training, including basic safety precautions, emergency procedures, and infection control; and

(c) All long-term care workers must complete seventy hours of long term care basic training, including training related to core competencies and population specific competencies.

(5) The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors on the competencies and training topics in this section.

(6) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

(7) The department of health shall adopt rules by August 1, 2010, to implement subsections (1), (2), and (3) of this section.

(8) The department shall adopt rules by August 1, 2010, to implement subsections (4) and (5) of this section.

NEW SECTION. Sec. 108. A new section is added to chapter 74.39A RCW to read as follows:

(1) Effective January 1, 2011, a biological, step, or adoptive parent who is the individual provider only for his or her developmentally disabled son or daughter must receive twelve hours of training relevant to the needs of adults with developmental disabilities within the first one hundred twenty days of becoming an individual provider.

(2) Effective January 1, 2011, individual providers identified in (a) and (b) of this subsection must complete thirty five hours of training within the first one hundred twenty days of becoming an individual provider. Five of the thirty five hours must be completed before becoming eligible to provide care. Two of these five hours shall be devoted to an orientation training regarding an individual provider's role as caregiver and the applicable terms of employment, and three hours shall be devoted to safety training, including basic safety precautions, emergency procedures, and infection control. Individual providers subject to this requirement include:

(a) An individual provider caring only for his or her biological, step, or adoptive child or parent unless covered by subsection (1) of this section; and

(b) Before January 1, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(3) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(4) The department shall adopt rules by August 1, 2010, to implement this section.

NEW SECTION. Sec. 109. A new section is added to chapter 74.39A RCW to read as follows:

(1) The department shall deny payment to any individual provider of home care services who has not been certified by the department of health as a home care aide as required under chapter 2, Laws of 2009 or, if exempted from certification by RCW 18.88B.040, has not completed his or her required training pursuant to chapter 2, Laws of 2009.

(2) The department may terminate the contract of any individual provider of home care services, or take any other enforcement measure deemed appropriate by the department if the individual provider's certification is revoked under chapter 2, Laws of 2009 or, if exempted from certification by RCW 18.88B.040, has not completed his or her required training pursuant to chapter 2, Laws of 2009.

(3) The department shall take appropriate enforcement action related to the contract of a private agency or facility licensed by the state, to provide personal care services, other than an individual provider, who knowingly employs a long-term care worker who is not a certified home care aide as required under chapter 2, Laws of 2009 or, if exempted from certification by RCW 18.88B.040, has not completed his or her required training pursuant to chapter 2, Laws of 2009.

(4) Chapter 34.05 RCW shall govern actions by the department under this section.

(5) The department shall adopt rules by August 1, 2010, to implement this section.

NEW SECTION. Sec. 110. A new section is added to chapter 74.39A RCW to read as follows:

(1) The department shall create a formula that converts the cost of the increase in wages and benefits negotiated and funded in the contract for individual providers of home care services pursuant to RCW 74.39A.270 and 74.39A.300, into a per hour amount, excluding those benefits defined in subsection (2) of this section. That per hour amount shall be added to the statewide home care agency vendor rate and shall be used exclusively for improving the wages and benefits of home care agency workers who provide direct care. The formula shall account for:

(a) All types of wages, benefits, and compensation negotiated and funded each biennium, including but not limited to:

- (i) Regular wages;
- (ii) Benefit pay, such as vacation, sick, and holiday pay;
- (iii) Taxes on wages/benefit pay;
- (iv) Mileage; and
- (v) Contributions to a training partnership; and

(b) The increase in the average cost of worker's compensation for home care agencies and application of the increases identified in (a) of this subsection to all hours required to be paid, including travel time, of direct service workers under the wage and hour laws and associated employer taxes.

(2) The contribution rate for health care benefits, including but not limited to medical, dental, and vision benefits, for eligible agency home care workers shall be paid by the department to home care agencies at the same rate as negotiated and funded in the collective bargaining agreement for individual providers of home care services.

NEW SECTION. Sec. 111. A new section is added to chapter 74.39A RCW to read as follows:

Long-term care workers shall be offered on-the-job training or peer mentorship for at least one hour per week in the first ninety days of work from a long-term care worker who has completed at least twelve hours of mentor training and is mentoring no more than ten other workers at any given time. This requirement applies to long term care workers who begin work on or after July 1, 2011.

NEW SECTION. Sec. 112. A new section is added to chapter 74.39A RCW to read as follows:

(1) The department of health shall ensure that all long-term care workers shall complete twelve hours of continuing

education training in advanced training topics each year. This requirement applies beginning on July 1, 2011.

(2) Completion of continuing education as required in this section is a prerequisite to maintaining home care aide certification under chapter 2, Laws of 2009.

(3) Unless voluntarily certified as a home care aide under chapter 2, Laws of 2009, subsection (1) of this section does not apply to:

(a) An individual provider caring only for his or her biological, step, or adoptive child; and

(b) Before June 30, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(4) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(5) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

(6) The department of health shall adopt rules by August 1, 2010, to implement subsections (1), (2), and (3) of this section.

(7) The department shall adopt rules by August 1, 2010, to implement subsection (4) of this section.

NEW SECTION. Sec. 113. A new section is added to chapter 74.39A RCW to read as follows:

The department shall offer, directly or through contract, training opportunities sufficient for a long-term care worker to accumulate seventy hours of training within a reasonable time period. For individual providers represented by an exclusive bargaining representative under RCW 74.39A.270, the training opportunities shall be offered through the training partnership established under RCW 74.39A.360. Training topics shall include, but are not limited to: Client rights; personal care; mental illness; dementia; developmental disabilities; depression; medication assistance; advanced communication skills; positive client behavior support; developing or improving client-centered activities; dealing with wandering or aggressive client behaviors; medical conditions; nurse delegation core training; peer mentor training; and advocacy for quality care training. The department may not require long term care workers to obtain the training described in this section. This requirement to offer advanced training applies beginning January 1, 2012.

NEW SECTION. Sec. 114. A new section is added to chapter 74.39A RCW to read as follows:

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

(1) "Adult family home" means a home licensed under chapter 70.128 RCW.

(2) "Adult residential care" means services provided by a boarding home that is licensed under chapter 18.20 RCW

and that has a contract with the department under RCW 74.39A.020 to provide personal care services.

(3) “Assisted living services” means services provided by a boarding home that has a contract with the department under RCW 74.39A.010 to provide personal care services, intermittent nursing services, and medication administration services, and the resident is housed in a private apartment-like unit.

(4) “Boarding home” means a facility licensed under chapter 18.20 RCW.

(5) “Core competencies” means basic training topics, including but not limited to, communication skills, worker self care, problem solving, maintaining dignity, consumer directed care, cultural sensitivity, body mechanics, fall prevention, skin and body care, long-term care worker roles and boundaries, supporting activities of daily living, and food preparation and handling.

(6) “Cost-effective care” means care provided in a setting of an individual’s choice that is necessary to promote the most appropriate level of physical, mental, and psychosocial well-being consistent with client choice, in an environment that is appropriate to the care and safety needs of the individual, and such care cannot be provided at a lower cost in any other setting. But this in no way precludes an individual from choosing a different residential setting to achieve his or her desired quality of life.

(7) “Department” means the department of social and health services.

(8) “Developmental disability” has the same meaning as defined in RCW 71A.10.020.

(9) “Direct care worker” means a paid caregiver who provides direct, hands on personal care services to persons with disabilities or the elderly requiring long term care.

(10) “Enhanced adult residential care” means services provided by a boarding home that is licensed under chapter 18.20 RCW and that has a contract with the department under RCW 74.39A.010 to provide personal care services, intermittent nursing services, and medication administration services.

(11) “Functionally disabled person” or “person who is functionally disabled” is synonymous with chronic functionally disabled and means a person who because of a recognized chronic physical or mental condition or disease, or developmental disability, including chemical dependency, is impaired to the extent of being dependent upon others for direct care, support, supervision, or monitoring to perform activities of daily living. “Activities of daily living” in this context, means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person’s functional abilities as they are related to the mental capacity to perform activities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(12) “Home and community services” means adult family homes, in-home services, and other services administered or provided by contract by the department directly or through contract with area agencies on aging or similar services provided by facilities and agencies licensed by the department.

(13) “Home care aide” means a long-term care worker who has obtained certification as a home care aide by the department of health.

(14) “Individual provider” is defined according to RCW 74.39A.240.

(15) “Long-term care” is synonymous with chronic care and means care and supports delivered indefinitely, intermittently, or over a sustained time to persons of any age disabled by chronic mental or physical illness, disease, chemical dependency, or a medical condition that is permanent, not reversible or curable, or is long-lasting and severely limits their mental or physical capacity for self-care. The use of this definition is not intended to expand the scope of services, care, or assistance by any individuals, groups, residential care settings, or professions unless otherwise expressed by law.

(16)(a) “Long-term care workers for the elderly or persons with disabilities” or “long-term care workers” includes all persons who are long-term care workers for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care employees of home care agencies, providers of home care services to persons with developmental disabilities under Title 71 RCW, all direct care workers in state licensed boarding homes, assisted living facilities, and adult family homes, respite care providers, community residential service providers, and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) “Long-term care workers” do not include: (i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or (ii) persons who are not paid by the state or by a private agency or facility licensed by the state to provide personal care services.

(17) “Nursing home” means a facility licensed under chapter 18.51 RCW.

(18) “Personal care services” means physical or verbal assistance with activities of daily living and instrumental activities of daily living provided because of a person’s functional disability.

(19) “Population specific competencies” means basic training topics unique to the care needs of the population the long-term care worker is serving, including but not limited to, mental health, dementia, developmental disabilities, young adults with physical disabilities, and older adults.

(20) “Qualified instructor” means a registered nurse or other person with specific knowledge, training, and work experience in the provision of direct, hands on personal care and other assistance services to the elderly or persons with disabilities requiring long term care.

(21) “Secretary” means the secretary of social and health services.

(22) “Secretary of health” means the secretary of health or the secretary’s designee.

(23) “Training partnership” means a joint partnership or trust that includes the office of the governor and the exclusive bargaining representative of individual providers

under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and workforce development, or other services to individual providers.

(24) "Tribally licensed boarding home" means a boarding home licensed by a federally recognized Indian tribe which home provides services similar to boarding homes licensed under chapter 18.20 RCW.

NEW SECTION. Sec. 115. The following acts or parts of acts are each repealed:

(1) RCW 18.88B.020 (Certification requirements) and 2011 c ... s ..., 2009 c 580 s 18, & 2009 c 2 s 4;

(2) RCW 18.88B.030 (Certification examinations) and 2011 c ... s ..., 2009 c 580 s 4, & 2009 c 2 s 6;

(3) RCW 18.88B.040 (Exemptions from training requirements) and 2011 c ... s ..., 2010 c 169 s 11, 2009 c 580 s 15, & 2009 c 2 s 7;

(4) RCW 74.39A.009 (Definitions) and 2011 c ... s ..., 2009 c 580 s 1, 2009 c 2 s 2, 2007 c 361 s 2, 2004 c 142 s 14, & 1997 c 392 s 103;

(5) RCW 74.39A.050 (Quality improvement principles) and 2011 c ... s ..., 2009 c 580 s 7, 2009 c 2 s 14, 2004 c 140 s 6, 2000 c 121 s 10, 1999 c 336 s 5, 1998 c 85 s 1, 1997 c 392 s 209, & 1995 1st sp.s. c 18 s 12;

(6) RCW 74.39A.055 (Criminal history checks on long-term care workers) and 2011 c ... s ..., 2009 c 580 s 2, & 2009 c 2 s 3;

(7) RCW 74.39A.073 (Training requirements for long-term care workers) and 2011 c ... s ..., 2009 c 580 s 10, & 2009 c 2 s 5;

(8) RCW 74.39A.075 (Training requirements for individual providers caring for family members) and 2011 c ... s ..., 2009 c 580 s 11, & 2009 c 2 s 8;

(9) RCW 74.39A.085 (Enforcement actions against persons not certified as home care aides and their employers) and 2011 c ... s ..., 2009 c 580 s 14, & 2009 c 2 s 12;

(10) RCW 74.39A.260 (Department duties -Criminal background checks on individual providers) and 2011 c ... s ..., 2009 c 580 s 9, & 2002 c 3 s 5;

(11) RCW 74.39A.310 (Contract for individual home care services providers -Cost of increase in wages and benefits funded -Formula) and 2011 c ... s ..., 2007 c 361 s 8, & 2006 c 9 s 1;

(12) RCW 74.39A.330 (Peer mentoring) and 2011 c ... s ..., 2009 c 478 s 1, & 2007 c 361 s 3;

(13) RCW 74.39A.340 (Continuing education requirements for long-term care workers) and 2011 c ... s ..., 2009 c 580 s 12, 2009 c 2 s 9, & 2007 c 361 s 4; and

(14) RCW 74.39A.350 (Advanced training) and 2011 c ... s ..., 2009 c 580 s 13, 2009 c 2 s 10, & 2007 c 361 s 5.

PART II PROTECTING TAXPAYERS BY REQUIRING ANNUAL INDEPENDENT AUDITS, INCREASING FRAUD INVESTIGATION, AND CAPPING ADMINISTRATIVE EXPENSES

NEW SECTION. Sec. 201. The state auditor shall conduct performance audits of the long-term in-home care program. The first audit must be completed within twelve months after the effective date of this section, and must be completed on

a biannual basis thereafter. As part of this auditing process, the state shall hire five additional fraud investigators to ensure that clients receiving services at taxpayers' expense are medically and financially qualified to receive the services and are actually receiving the services.

NEW SECTION. Sec. 202. The people hereby establish limits on the percentage of tax revenues that can be used for administrative expenses in the long-term in-home care program. Within one hundred eighty days of the effective date of this section, the state shall prepare a plan to cap administrative expenses so that at least ninety percent of taxpayer spending must be devoted to direct care. This limitation must be achieved within two years from the effective date of this section.

PART III MISCELLANEOUS

NEW SECTION. Sec. 301. (1) Sections 101 and 115(6) of this act only take effect if RCW 74.39A.055 is amended or repealed by the legislature in 2011.

(2) Sections 102 and 115(10) of this act only take effect if RCW 74.39A.260 is amended or repealed by the legislature in 2011.

(3) Sections 103 and 115(1) of this act only take effect if RCW 18.88B.020 is amended or repealed by the legislature in 2011.

(4) Sections 104 and 115(2) of this act only take effect if RCW 18.88B.030 is amended or repealed by the legislature in 2011.

(5) Sections 105 and 115(3) of this act only take effect if RCW 18.88B.040 is amended or repealed by the legislature in 2011.

(6) Sections 106 and 115(5) of this act only take effect if RCW 74.39A.050 is amended or repealed by the legislature in 2011.

(7) Sections 107 and 115(7) of this act only take effect if RCW 74.39A.073 is amended or repealed by the legislature in 2011.

(8) Sections 108 and 115(8) of this act only take effect if RCW 74.39A.075 is amended or repealed by the legislature in 2011.

(9) Sections 109 and 115(9) of this act only take effect if RCW 74.39A.085 is amended or repealed by the legislature in 2011.

(10) Sections 110 and 115(11) of this act only take effect if RCW 74.39A.310 is amended or repealed by the legislature in 2011.

(11) Sections 111 and 115(12) of this act only take effect if RCW 74.39A.330 is amended or repealed by the legislature in 2011.

(12) Sections 112 and 115(13) of this act only take effect if RCW 74.39A.340 is amended or repealed by the legislature in 2011.

(13) Sections 113 and 115(14) of this act only take effect if RCW 74.39A.350 is amended or repealed by the legislature in 2011.

(14) Sections 114 and 115(4) of this act only take effect if RCW 74.39A.009 is amended or repealed by the legislature in 2011.

(15) Section 303 of this act takes effect only if one or more other sections of this act take effect pursuant to paragraphs (1) through (14) of this section.

NEW SECTION. Sec. 302. The code reviser is directed to note in the Revised Code of Washington that sections 101 through 114 of this act are versions of statutes existing prior to the 2011 regular legislative session as follows:

(1) Section 101 of this act is the same language as RCW 74.39A.055 and 2009 c 580 s 2;

(2) Section 102 of this act is the same language as RCW 74.39A.260 and 2009 c 580 s 9;

(3) Section 103 of this act is the same language as RCW 18.88B.020 and 2009 c 580 s 18;

(4) Section 104 of this act is the same language as RCW 18.88B.030 and 2009 c 580 s 4;

(5) Section 105 of this act is the same language as RCW 18.88B.040 and 2010 c 169 s 12;

(6) Section 106 of this act is the same language as RCW 74.39A.050 and 2009 c 580 s 7;

(7) Section 107 of this act is the same language as RCW 74.39A.073 and 2009 c 580 s 10;

(8) Section 108 of this act is the same language as RCW 74.39A.075 and 2009 c 580 s 11;

(9) Section 109 of this act is the same language as RCW 74.39A.085 and 2009 c 580 s 14;

(10) Section 110 of this act is the same language as RCW 74.39A.310 and 2007 c 361 s 8;

(11) Section 111 of this act is the same language as RCW 74.39A.330 and 2009 c 478 s 1;

(12) Section 112 of this act is the same language as RCW 74.39A.340 and 2009 c 580 s 12;

(13) Section 113 of this act is the same language as RCW 74.39A.350 and 2009 c 580 s 13; and

(14) Section 114 of this act is the same language as RCW 74.39A.009 and 2009 c 580 s 1.

If any of sections 101 through 114 of this act take effect, the code reviser is directed to codify such sections in the revised code of Washington under the same statute number as previously used for such statute, as set forth in this section.

NEW SECTION. Sec. 303. Notwithstanding any action of the legislature during 2011, all long-term care workers as defined under RCW 74.39A.009(16), as it existed on April 1, 2011, are covered by sections 101 through 113 of this act or by the corresponding original versions of the statutes, as referenced in section 302 (1) through (13) on the schedules set forth in those sections, except that long-term care workers employed as community residential service providers are covered by sections 101 through 113 of this act beginning January 1, 2016.

NEW SECTION. Sec. 304. A new section is added to chapter 74.39A RCW to read as follows:

(1) If any provision of this act triggers changes to an agreement reached under RCW 74.39A.300, the changes must go into effect immediately without need for legislative approval.

(2) The requirements contained in RCW 74.39A.300 and this act constitute ministerial, mandatory, and nondiscretionary duties. Failure to fully perform such duties constitutes a violation of this act. Any person may bring an action to require the governor or other responsible persons to perform such duties. Such action may be brought in the superior court, at the petitioner's option, for (a) Thurston county, or (b) the county of the petitioner's residence or principal place of business, or such action may be filed directly with the supreme court, which is hereby given original jurisdiction over such action.

NEW SECTION. Sec. 305. The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. Sec. 306. 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. 307. This act takes effect sixty days from its enactment by the people.

NEW SECTION. Sec. 308. This act may be known and cited as the restoring quality home care initiative.

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Complete Text

Initiative Measure 1183

AN ACT Relating to liquor; amending RCW 66.24.360, 82.08.150, 66.08.050, 66.08.060, 66.20.010, 66.20.160, 66.24.310, 66.24.380, 66.28.030, 66.24.540, 66.24.590, 66.28.060, 66.28.070, 66.28.170, 66.28.180, 66.28.190, 66.28.280, 66.04.010, 43.19.19054, 66.08.020, 66.08.026, 66.08.030, 66.24.145, 66.24.160, 66.32.010, 66.44.120, 66.44.150, 66.44.340, 19.126.010, and 19.126.040; reenacting and amending RCW 66.28.040 and 19.126.020; adding new sections to chapter 66.24 RCW; adding new sections to chapter 66.28 RCW; creating new sections; repealing RCW 66.08.070, 66.08.075, 66.08.160, 66.08.165, 66.08.166, 66.08.167, 66.08.220, 66.08.235, 66.16.010, 66.16.040, 66.16.041, 66.16.050, 66.16.060, 66.16.070, 66.16.100, 66.16.110, 66.16.120, and 66.28.045; contingently repealing ESSB 5942, 2011 1st sp.s. c ... ss 1 through 10; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

PART I LICENSED SALE OF SPIRITS

NEW SECTION. Sec. 101. (1) The people of the state of Washington, in enacting this initiative measure, find that the state government monopoly on liquor distribution and liquor stores in Washington and the state government regulations that arbitrarily restrict the wholesale distribution and pricing of wine are outdated, inefficient, and costly to local taxpayers, consumers, distributors, and retailers. Therefore, the people wish to privatize and modernize both wholesale distribution and retail sales of liquor and remove outdated restrictions on the wholesale distribution of wine by enacting this initiative.

(2) This initiative will:

(a) Privatize and modernize wholesale distribution and retail sales of liquor in Washington state in a manner that will reduce state government costs and provide increased funding for state and local government services, while continuing to strictly regulate the distribution and sale of liquor;

(b) Get the state government out of the commercial business of distributing, selling, and promoting the sale of liquor, allowing the state to focus on the more appropriate government role of enforcing liquor laws and protecting public health and safety concerning all alcoholic beverages;

(c) Authorize the state to auction off its existing state liquor distribution and state liquor store facilities and equipment;

(d) Allow a private distributor of alcohol to get a license to distribute liquor if that distributor meets the requirements set by the Washington state liquor control board and is approved for a license by the board and create provisions to promote investments by private distributors;

(e) Require private distributors who get licenses to distribute liquor to pay ten percent of their gross spirits revenues to the state during the first two years and five percent of their gross spirits revenues to the state after the first two years;

(f) Allow for a limited number of retail stores to sell liquor if they meet public safety requirements set by this initiative and the liquor control board;

(g) Require that a retail store must have ten thousand square feet or more of fully enclosed retail space within a single structure in order to get a license to sell liquor, with limited exceptions;

(h) Require a retail store to demonstrate to state regulators that it can effectively prevent sales of alcohol to minors in order to get a license to sell liquor;

(i) Ensure that local communities have input before a liquor license can be issued to a local retailer or distributor and maintain all local zoning requirements and authority related to the location of liquor stores;

(j) Require private retailers who get licenses to sell liquor to pay seventeen percent of their gross spirits revenues to the state;

(k) Maintain the current distribution of liquor revenues to local governments and dedicate a portion of the new revenues raised from liquor license fees to increase funding for local public safety programs, including police, fire, and emergency services in communities throughout the state;

(l) Make the standard fines and license suspension penalties for selling liquor to minors twice as strong as the existing fines and penalties for selling beer or wine to minors;

(m) Make requirements for training and supervision of employees selling spirits at retail more stringent than what is now required for sales of beer and wine;

(n) Update the current law on wine distribution to allow wine distributors and wineries to give volume discounts on the wholesale price of wine to retail stores and restaurants; and

(o) Allow retailers and restaurants to distribute wine to their own stores from a central warehouse.

NEW SECTION. Sec. 102. A new section is added to chapter 66.24 RCW to read as follows:

(1) The holder of a spirits distributor license or spirits retail license issued under this title may commence sale of spirits upon issuance thereof, but in no event earlier than March 1, 2012, for distributors, or June 1, 2012, for retailers. The board must complete application processing by those dates of all complete applications for spirits licenses on file with the board on or before sixty days from the effective date of this section.

(2) The board must effect orderly closure of all state liquor stores no later than June 1, 2012, and must thereafter refrain from purchase, sale, or distribution of liquor, except for asset sales authorized by this act.

(3) The board must devote sufficient resources to planning and preparation for sale of all assets of state liquor stores and distribution centers, and all other assets of the state over which the board has power of disposition, including without limitation goodwill and location value associated with state liquor stores, with the objective of depleting all inventory of liquor by May 31, 2012, and closing all other asset sales no later than June 1, 2013. The board, in furtherance of this subsection, may sell liquor to spirits licensees.

(4)(a) Disposition of any state liquor store or distribution center assets remaining after June 1, 2013, must be managed by the department of revenue.

(b) The board must obtain the maximum reasonable value for all asset sales made under this section.

(c) The board must sell by auction open to the public the right at each state-owned store location of a spirits retail licensee to operate a liquor store upon the premises. Such right must be freely alienable and subject to all state and local zoning and land use requirements applicable to the property. Acquisition of the operating rights must be a precondition to, but does not establish eligibility for, a spirits retail license at the location of a state store and does not confer any privilege conferred by a spirits retail license. Holding the rights does not require the holder of the right to operate a liquor-licensed business or apply for a liquor license.

(5) All sales proceeds under this section, net of direct sales expenses and other transition costs authorized by this section, must be deposited into the liquor revolving fund.

(6)(a) The board must complete the orderly transition from the current state-controlled system to the private licensee system of spirits retailing and distribution as required under this chapter by June 1, 2012.

(b) The transition must include, without limitation, a provision for applying operating and asset sale revenues of the board to just and reasonable measures to avert harm to interests of tribes, military buyers, and nonemployee liquor store operators under then existing contracts for supply by the board of distilled spirits, taking into account present value of issuance of a spirits retail license to the holder of such interest. The provision may extend beyond the time for completion of transition to a spirits licensee system.

(c) Purchases by the federal government from any licensee of the board of spirits for resale through commissaries at military installations are exempt from sales tax based on selling price levied by RCW 82.08.150.

NEW SECTION. Sec. 103. A new section is added to chapter 66.24 RCW to read as follows:

(1) There is a spirits retail license to: Sell spirits in original containers to consumers for consumption off the licensed premises and to permit holders; sell spirits in original containers to retailers licensed to sell spirits for consumption on the premises, for resale at their licensed premises according to the terms of their licenses, although no single sale may exceed twenty-four liters, unless the sale is by a licensee that was a contract liquor store manager of a contract liquor store at the location of its spirits retail licensed premises from which it makes such sales; and export spirits.

(2) For the purposes of this title, a spirits retail license is a retail license, and a sale by a spirits retailer is a retail sale only if not for resale. Nothing in this title authorizes sales by on-sale licensees to other retail licensees. The board must establish by rule an obligation of on-sale spirits retailers to:

(a) Maintain a schedule by stock-keeping unit of all their purchases of spirits from spirits retail licensees, indicating the identity of the seller and the quantities purchased; and

(b) Provide, not more frequently than quarterly, a report for each scheduled item containing the identity of the

purchasing on-premise licensee and the quantities of that scheduled item purchased since any preceding report to:

(i) A distributor authorized by the distiller to distribute a scheduled item in the on-sale licensee's geographic area; or

(ii) A distiller acting as distributor of the scheduled item in the area.

(3)(a) Except as otherwise provided in subsection (c) of this section, the board may issue spirits retail licenses only for premises comprising at least ten thousand square feet of fully enclosed retail space within a single structure, including storerooms and other interior auxiliary areas but excluding covered or fenced exterior areas, whether or not attached to the structure, and only to applicants that the board determines will maintain systems for inventory management, employee training, employee supervision, and physical security of the product substantially as effective as those of stores currently operated by the board with respect to preventing sales to or pilferage by underage or inebriated persons.

(b) License issuances and renewals are subject to RCW 66.24.010 and the regulations promulgated thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent issuance of local liquor licenses. However, existing grocery premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of processing applications for spirits retail licenses.

(c) The board may not deny a spirits retail license to an otherwise qualified contract liquor store at its contract location or to the holder of former state liquor store operating rights sold at auction under section 102 of this act on the grounds of location, nature, or size of the premises to be licensed. The board shall not deny a spirits retail license to applicants that are not contract liquor stores or operating rights holders on the grounds of the size of the premises to be licensed, if such applicant is otherwise qualified and the board determines that:

(i) There is no retail spirits license holder in the trade area that the applicant proposes to serve;

(ii) The applicant meets, or upon licensure will meet, the operational requirements established by the board by rule; and

(iii) The licensee has not committed more than one public safety violation within the three years preceding application.

(d) A retailer authorized to sell spirits for consumption on or off the licensed premises may accept delivery of spirits at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which the retailer may deliver to its own licensed premises and, pursuant to sales permitted under subsection (1) of this section:

(i) To other retailer premises licensed to sell spirits for consumption on the licensed premises;

(ii) To other registered facilities; or

(iii) To lawful purchasers outside the state. The facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers, including at least one retailer licensed to sell spirits.

(4) Each spirits retail licensee must pay to the board, for deposit into the liquor revolving fund, a license issuance fee equivalent to seventeen percent of all spirits sales revenues under the license, exclusive of taxes collected by the licensee and of sales of items on which a license fee payable under this section has otherwise been incurred. The board must establish rules setting forth the timing of such payments and reporting of sales dollar volume by the licensee, with payments required quarterly in arrears. The first payment is due October 1, 2012.

(5) In addition to the payment required under subsection (4) of this section, each licensee must pay an annual license renewal fee of one hundred sixty-six dollars. The board must periodically review and adjust the renewal fee as may be required to maintain it as comparable to annual license renewal fees for licenses to sell beer and wine not for consumption on the licensed premises. If required by law at the time, any increase of the annual renewal fee becomes effective only upon ratification by the legislature.

(6) As a condition to receiving and renewing a retail spirits license the licensee must provide training as prescribed by the board by rule for individuals who sell spirits or who manage others who sell spirits regarding compliance with laws and regulations regarding sale of spirits, including without limitation the prohibitions against sale of spirits to individuals who are underage or visibly intoxicated. The training must be provided before the individual first engages in the sale of spirits and must be renewed at least every five years. The licensee must maintain records documenting the nature and frequency of the training provided. An employee training program is presumptively sufficient if it incorporates a "responsible vendor program" promulgated by the board.

(7) The maximum penalties prescribed by the board in WAC 314-29-020 through 314-29-040 relating to fines and suspensions are doubled for violations relating to the sale of spirits by retail spirits licensees.

(8)(a) The board must promulgate regulations concerning the adoption and administration of a compliance training program for spirits retail licensees, to be known as a "responsible vendor program," to reduce underage drinking, encourage licensees to adopt specific best practices to prevent sales to minors, and provide licensees with an incentive to give their employees on-going training in responsible alcohol sales and service.

(b) Licensees who join the responsible vendor program under this section and maintain all of the program's requirements are not subject to the doubling of penalties provided in this section for a single violation in any period of twelve calendar months.

(c) The responsible vendor program must be free, voluntary, and self-monitoring.

(d) To participate in the responsible vendor program, licensees must submit an application form to the board. If the application establishes that the licensee meets the qualifications to join the program, the board must send the licensee a membership certificate.

(e) A licensee participating in the responsible vendor program must at a minimum:

- (i) Provide on-going training to employees;
- (ii) Accept only certain forms of identification for alcohol sales;

(iii) Adopt policies on alcohol sales and checking identification;

(iv) Post specific signs in the business; and

(v) Keep records verifying compliance with the program's requirements.

Sec. 104. RCW 66.24.360 and 2011 c 119 s 203 are each amended to read as follows:

(1) There ((shall be)) is a ((beer and/or wine retailer's license to be designated as a)) grocery store license to sell wine and/or beer, including without limitation strong beer((-and/or-wine)) at retail in ((bottles, cans, and)) original containers, not to be consumed upon the premises where sold((-at any store other than the state liquor stores)).

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

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

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

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

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

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

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

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

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

((({4})) (7) Licensees holding a grocery store license must maintain a minimum three thousand dollar inventory of food

products for human consumption, not including pop, beer, strong beer, or wine.

~~((5)) (8) A grocery store licensee with a wine retailer reseller endorsement may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed premises, to other registered facilities, or to lawful purchasers outside the state. Facilities may be registered and utilized by associations, cooperatives, or comparable groups of grocery store licensees.~~

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

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

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

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

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

~~((6)) (10) A grocery store licensee holding a snack bar license under RCW 66.24.350 may receive an endorsement to allow the sale of confections containing more than one percent but not more than ten percent alcohol by weight to persons twenty-one years of age or older.~~

NEW SECTION. Sec. 105. A new section is added to chapter 66.24 RCW to read as follows:

(1) There is a license for spirits distributors to (a) sell spirits purchased from manufacturers, distillers, or suppliers including, without limitation, licensed Washington distilleries, licensed spirits importers, other Washington spirits distributors, or suppliers of foreign spirits located outside of the United States, to spirits retailers including, without limitation, spirits retail licensees, special occasion license holders, interstate common carrier license holders, restaurant spirits retailer license holders, spirits, beer, and wine private club license holders, hotel license holders, sports entertainment facility license holders, and spirits, beer, and wine nightclub license holders, and to other spirits distributors; and (b) export the same from the state.

(2) By January 1, 2012, the board must issue spirits distributor licenses to all applicants who, upon the effective date of this section, have the right to purchase spirits from a spirits manufacturer, spirits distiller, or other spirits supplier for resale in the state, or are agents of such supplier authorized to sell to licensees in the state, unless the board determines that issuance of a license to such applicant is not in the public interest.

(3)(a) As limited by (b) of this subsection and subject to (c) of this subsection, each spirits distributor licensee must

pay to the board for deposit into the liquor revolving fund, a license issuance fee calculated as follows:

(i) In each of the first two years of licensure, ten percent of the total revenue from all the licensee's sales of spirits made during the year for which the fee is due, respectively; and

(ii) In the third year of licensure and each year thereafter, five percent of the total revenue from all the licensee's sales of spirits made during the year for which the fee is due, respectively.

(b) The fee required under this subsection (3) is calculated only on sales of items which the licensee was the first spirits distributor in the state to have received:

(i) In the case of spirits manufactured in the state, from the distiller; or

(ii) In the case of spirits manufactured outside the state, from an authorized out-of-state supplier.

(c) By March 31, 2013, all persons holding spirits distributor licenses on or before March 31, 2013, must have paid collectively one hundred fifty million dollars or more in spirits distributor license fees. If the collective payment through March 31, 2013, totals less than one hundred fifty million dollars, the board must, according to rules adopted by the board for the purpose, collect by May 31, 2013, as additional spirits distributor license fees the difference between one hundred fifty million dollars and the actual receipts, allocated among persons holding spirits distributor licenses at any time on or before March 31, 2013, ratably according to their spirits sales made during calendar year 2012. Any amount by which such payments exceed one hundred fifty million dollars by March 31, 2013, must be credited to future license issuance fee obligations of spirits distributor licensees according to rules adopted by the board.

(d) A retail licensee selling for resale must pay a distributor license fee under the terms and conditions in this section on resales of spirits the licensee has purchased on which no other distributor license fee has been paid. The board must establish rules setting forth the frequency and timing of such payments and reporting of sales dollar volume by the licensee, with payments due quarterly in arrears.

(e) No spirits inventory may be subject to calculation of more than a single spirits distributor license issuance fee.

(4) In addition to the payment set forth in subsection (3) of this section, each spirits distributor licensee renewing its annual license must pay an annual license renewal fee of one thousand three hundred twenty dollars for each licensed location.

(5) There is no minimum facility size or capacity for spirits distributor licenses, and no limit on the number of such licenses issued to qualified applicants. License applicants must provide physical security of the product that is substantially as effective as the physical security of the distribution facilities currently operated by the board with respect to preventing pilferage. License issuances and renewals are subject to RCW 66.24.010 and the regulations promulgated thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent issuance of local liquor licenses. However, existing distributor premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW

66.24.010(9)(a) for the purpose of processing applications for spirits distributor licenses.

Sec. 106. RCW 82.08.150 and 2009 c 479 s 65 are each amended to read as follows:

(1) There is levied and ~~((shall be))~~ collected a tax upon each retail sale of spirits in the original package at the rate of fifteen percent of the selling price ~~((The tax imposed in this subsection shall apply to all such sales including sales by the Washington state liquor stores and agencies, but excluding sales to spirits, beer, and wine restaurant licensees))~~.

(2) There is levied and ~~((shall be))~~ collected a tax upon each sale of spirits in the original package at the rate of ten percent of the selling price on sales by ~~((Washington state liquor stores and agencies to spirits, beer, and wine restaurant licensees))~~ a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to restaurant spirits retailers.

(3) There is levied and ~~((shall be))~~ collected an additional tax upon each ~~((retail))~~ sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of one dollar and seventy-two cents per liter. ~~((The additional tax imposed in this subsection shall apply to all such sales including sales by Washington state liquor stores and agencies, and including sales to spirits, beer, and wine restaurant licensees:))~~

(4) An additional tax is imposed equal to fourteen percent multiplied by the taxes payable under subsections (1), (2), and (3) of this section.

(5) An additional tax is imposed upon each ~~((retail))~~ sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of seven cents per liter. ~~((The additional tax imposed in this subsection shall apply to all such sales including sales by Washington state liquor stores and agencies, and including sales to spirits, beer, and wine restaurant licensees:))~~ All revenues collected during any month from this additional tax ~~((shall))~~ must be deposited in the state general fund by the twenty-fifth day of the following month.

(6)(a) An additional tax is imposed upon retail sale of spirits in the original package at the rate of ~~((one and seven-tenths percent of the selling price through June 30, 1995, two and six-tenths percent of the selling price for the period July 1, 1995, through June 30, 1997, and))~~ three and four-tenths percent of the selling price ~~((thereafter. This additional tax applies to all such sales including sales by Washington state liquor stores and agencies, but excluding sales to spirits, beer, and wine restaurant licensees))~~.

(b) An additional tax is imposed upon retail sale of spirits in the original package to a restaurant spirits retailer at the rate of ~~((one and one-tenth percent of the selling price through June 30, 1995, one and seven-tenths percent of the selling price for the period July 1, 1995, through June 30, 1997, and))~~ two and three-tenths percent of the selling price ~~((thereafter. This additional tax applies to all such sales to spirits, beer, and wine restaurant licensees))~~.

(c) An additional tax is imposed upon each ~~((retail))~~ sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of ~~((twenty cents per liter through June 30, 1995, thirty cents per liter for the period July 1, 1995, through June 30, 1997, and))~~ forty-one cents per liter ~~((thereafter. This additional tax applies to all such sales including sales by Washington state liquor stores and agencies, and including sales to spirits, beer, and wine restaurant licensees))~~.

(d) All revenues collected during any month from additional taxes under this subsection ~~((shall))~~ must be deposited in the state general fund by the twenty-fifth day of the following month.

(7)(a) An additional tax is imposed upon each retail sale of spirits in the original package at the rate of one dollar and thirty-three cents per liter. ~~((This additional tax applies to all such sales including sales by Washington state liquor stores and agencies, but excluding sales to spirits, beer, and wine restaurant licensees:))~~

(b) All revenues collected during any month from additional taxes under this subsection ~~((shall))~~ must be deposited by the twenty-fifth day of the following month into the general fund.

(8) The tax imposed in RCW 82.08.020 ~~((shall))~~ does not apply to sales of spirits in the original package.

(9) The taxes imposed in this section ~~((shall))~~ must be paid by the buyer to the seller, and each seller ~~((shall))~~ must collect from the buyer the full amount of the tax payable in respect to each taxable sale under this section. The taxes required by this section to be collected by the seller ~~((shall))~~ must be stated separately from the selling price, and for purposes of determining the tax due from the buyer to the seller, it ~~((shall be))~~ is conclusively presumed that the selling price quoted in any price list does not include the taxes imposed by this section. Sellers must report and return all taxes imposed in this section in accordance with rules adopted by the department.

(10) As used in this section, the terms, "spirits" and "package" ~~((shall))~~ have the same meaning ~~((ascribed to them))~~ as provided in chapter 66.04 RCW.

Sec. 107. RCW 66.08.050 and 2011 c 186 s 2 are each amended to read as follows:

The board, subject to the provisions of this title and the rules, ~~((shall))~~ must:

(1) ~~((Determine the localities within which state liquor stores shall be established throughout the state, and the number and situation of the stores within each locality;~~

—(2) Appoint in cities and towns and other communities, in which no state liquor store is located, contract liquor stores. In addition, the board may appoint, in its discretion, a manufacturer that also manufactures liquor products other than wine under a license under this title, as a contract liquor store for the purpose of sale of liquor products of its own manufacture on the licensed premises only. Such contract liquor stores shall be authorized to sell liquor under the guidelines provided by law, rule, or contract, and such contract liquor stores shall be subject to such additional rules and regulations consistent with this title as the board may

require. Sampling on contract store premises is permitted under this act;

~~—(3) Establish all necessary warehouses for the storing and bottling, diluting and rectifying of stocks of liquors for the purposes of this title;~~

~~—(4) Provide for the leasing for periods not to exceed ten years of all premises required for the conduct of the business; and for remodeling the same, and the procuring of their furnishings, fixtures, and supplies; and for obtaining options of renewal of such leases by the lessee. The terms of such leases in all other respects shall be subject to the direction of the board;~~

~~—(5)) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;~~

~~((6)) (2) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;~~

~~((7)) (3) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;~~

~~((8)) (4) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;~~

~~((9)) (5) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;~~

~~((10)) (6) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol consumption by youth and the abuse of alcohol by adults in Washington state. The board's alcohol awareness program ((shall)) must cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program;~~

~~((11)) (7) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and ((shall have)) has full power to do each and every act necessary to the conduct of its ((business, including all buying, selling, preparation and approval of forms, and every other function of the business whatsoever, subject only to audit by the state auditor: PROVIDED, That the board shall have)) regulatory functions, including all supplies procurement, preparation and approval of forms, and every other undertaking necessary to perform its regulatory functions whatsoever, subject only to audit by the state auditor. However, the board has no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and present danger of disorderly conduct being provoked by such language or to restrict advertising of lawful prices.~~

Sec. 108. RCW 66.08.060 and 2005 c 231 s 3 are each amended to read as follows:

~~((1) The board shall not advertise liquor in any form or through any medium whatsoever.~~

~~—(2) In-store liquor merchandising is not advertising for the purposes of this section.~~

~~—(3)) The board ((shall have)) has power to adopt any and all reasonable rules as to the kind, character, and location of advertising of liquor.~~

Sec. 109. RCW 66.20.010 and 2011 c 119 s 213 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee ((shall)) must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanitorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation ((at prices to be fixed by the board));

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor,

or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title ((66-RCW)) to the contrary notwithstanding. Any such spirituous liquor ((shall)) must be purchased from ~~((the board or a spirits, beer, and wine restaurant licensee))~~ a spirits retailer or distributor, and any such ~~((beer and wine shall be))~~ liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title ((66-RCW)) to the contrary notwithstanding. Any such spirituous liquor ((shall)) must be purchased from ~~((the board or a spirits, beer, and wine restaurant licensee))~~ a spirits retailer or distributor, and any such ~~((beer and wine shall be))~~ liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title ((66-RCW)) to the contrary notwithstanding. Any such spirituous liquor ((shall)) must be purchased from ~~((the board))~~ a liquor spirits retailer or distributor, and any such ~~((beer or wine shall be))~~ liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests.

Sec. 110. RCW 66.20.160 and 2005 c 151 s 8 are each amended to read as follows:

~~((Words and phrases))~~ As used in RCW 66.20.160 ~~((to))~~ through 66.20.210, inclusive, ~~((shall have the following meaning:~~

—"Card of identification" means any one of those cards described in RCW 66.16.040.))

"licensee" means the holder of a retail liquor license issued by the board, and includes any employee or agent of the licensee.

~~(("~~Store employee" means a person employed in a state liquor store to sell liquor.))

Sec. 111. RCW 66.24.310 and 2011 c 119 s 301 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, no person ~~((shall))~~ may canvass for, solicit, receive, or take orders for the purchase or sale of liquor, nor contact any licensees of the board in goodwill activities, unless ~~((such person shall be the accredited representative of a person, firm, or corporation holding a certificate of approval issued pursuant to RCW 66.24.270 or 66.24.206, a beer distributor's license, a microbrewer's license, a domestic brewer's license, a beer importer's license, a domestic winery license, a wine importer's license, or a wine distributor's license within the state of Washington, or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor, or foreign-produced beer or wine, and shall have))~~ the person is the representative of a licensee or certificate holder authorized by this title to sell liquor for resale in the state and has applied for and received a representative's license.

(b) (a) of this subsection ~~((shall))~~ does not apply to: (i) Drivers who deliver spirits, beer, or wine; or (ii) domestic wineries or their employees.

(2) Every representative's license issued under this title ~~((shall be))~~ is subject to all conditions and restrictions imposed by this title or by the rules and regulations of the board; the board, for the purpose of maintaining an orderly market, may limit the number of representative's licenses issued for representation of specific classes of eligible employers.

(3) Every application for a representative's license must be approved by a holder of a certificate of approval ~~((issued pursuant to RCW 66.24.270 or 66.24.206))~~, a licensed beer distributor, a licensed domestic brewer, a licensed beer importer, a licensed microbrewer, a licensed domestic winery, a licensed wine importer, a licensed wine distributor, or by a distiller, manufacturer, importer, or distributor of ~~((spirituous liquor))~~ spirits, or of foreign-produced beer or wine, as required by the rules and regulations of the board ((shall require)).

(4) The fee for a representative's license ~~((shall be))~~ is twenty-five dollars per year.

~~((5) An accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may, after he or she has applied for and received a representative's license, contact retail licensees of the board only in goodwill activities pertaining to spirituous liquor products.))~~

Sec. 112. RCW 66.24.380 and 2005 c 151 s 10 are each amended to read as follows:

There ~~((shall be))~~ is a retailer's license to be designated as a special occasion license to be issued to a not-for-profit society or organization to sell spirits, beer, and wine by the individual serving for on-premises consumption at a specified event, such as at picnics or other special occasions, at a specified date and place; fee sixty dollars per day.

(1) The not-for-profit society or organization is limited to sales of no more than twelve calendar days per year. For the purposes of this subsection, special occasion licensees that are "agricultural area fairs" or "agricultural county, district, and area fairs," as defined by RCW 15.76.120, that receive a special occasion license may, once per calendar year, count as one event fairs that last multiple days, so long as alcohol sales are at set dates, times, and locations, and the board receives prior notification of the dates, times, and locations.

The special occasion license applicant will pay the sixty dollars per day for this event.

(2) The licensee may sell spirits, beer, and/or wine in original, unopened containers for off-premises consumption if permission is obtained from the board prior to the event.

(3) Sale, service, and consumption of spirits, beer, and wine is to be confined to specified premises or designated areas only.

(4) ~~((Spirituos))~~ Liquor sold under this special occasion license must be purchased ~~((at a state liquor store or contract liquor store without discount at retail prices, including all taxes))~~ from a licensee of the board.

(5) Any violation of this section is a class 1 civil infraction having a maximum penalty of two hundred fifty dollars as provided for in chapter 7.80 RCW.

Sec. 113. RCW 66.28.030 and 2004 c 160 s 10 are each amended to read as follows:

Every domestic distillery, brewery, and microbrewery, domestic winery, certificate of approval holder, licensed liquor importer, licensed wine importer, and licensed beer importer ~~((shall be))~~ is responsible for the conduct of any licensed spirits, beer, or wine distributor in selling, or contracting to sell, to retail licensees, spirits, beer, or wine manufactured by such domestic distillery, brewery, microbrewery, domestic winery, manufacturer holding a certificate of approval, sold by an authorized representative holding a certificate of approval, or imported by such liquor, beer, or wine importer. Where the board finds that any licensed spirits, beer, or wine distributor has violated any of the provisions of this title or of the regulations of the board in selling or contracting to sell spirits, beer, or wine to retail licensees, the board may, in addition to any punishment inflicted or imposed upon such distributor, prohibit the sale of the brand or brands of spirits, beer, or wine involved in such violation to any or all retail licensees within the trade territory usually served by such distributor for such period of time as the board may fix, irrespective of whether the distiller manufacturing such spirits or the liquor importer importing such spirits, brewer manufacturing such beer or the beer importer importing such beer, or the domestic winery manufacturing such wine or the wine importer importing such wine or the certificate of approval holder manufacturing such spirits, beer, or wine or acting as authorized representative actually participated in such violation.

Sec. 114. RCW 66.24.540 and 1999 c 129 s 1 are each amended to read as follows:

(1) There ~~((shall be))~~ is a retailer's license to be designated as a motel license. The motel license may be issued to a motel regardless of whether it holds any other class of license under this title. No license may be issued to a motel offering rooms to its guests on an hourly basis. The license authorizes the licensee to:

~~((+))~~ (a) Sell, at retail, in locked honor bars, spirits in individual bottles not to exceed fifty milliliters, beer in individual cans or bottles not to exceed twelve ounces, and wine in individual bottles not to exceed one hundred eighty-seven milliliters, to registered guests of the motel for consumption in guest rooms.

~~((+))~~ (i) Each honor bar must also contain snack foods. No more than one-half of the guest rooms may have honor bars.

~~((b))~~ (ii) All spirits to be sold under the license must be purchased from a spirits retailer or a spirits distributor licensee of the board.

~~((c))~~ (iii) The licensee ~~((shall))~~ must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest ~~((shall))~~ must also execute an affidavit verifying that no one under twenty-one years of age ~~((shall have))~~ has access to the spirits, beer, and wine in the honor bar.

~~((2))~~ (b) Provide without additional charge, to overnight guests of the motel, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited. All spirits, beer, and wine service must be done by an alcohol server as defined in RCW 66.20.300 and comply with RCW 66.20.310.

(2) The annual fee for a motel license is five hundred dollars.

(3) For the purposes of this section, "motel" ~~((as used in this section))~~ means a transient accommodation licensed under chapter 70.62 RCW.

~~((As used in this section, "spirits," "beer," and "wine" have the meanings defined in RCW 66.04.010.))~~

Sec. 115. RCW 66.24.590 and 2011 c 119 s 403 are each amended to read as follows:

(1) There ~~((shall be))~~ is a retailer's license to be designated as a hotel license. No license may be issued to a hotel offering rooms to its guests on an hourly basis. Food service provided for room service, banquets or conferences, or restaurant operation under this license ~~((shall))~~ must meet the requirements of rules adopted by the board.

(2) The hotel license authorizes the licensee to:

(a) Sell spirited liquor, beer, and wine, by the individual glass, at retail, for consumption on the premises, including mixed drinks and cocktails compounded and mixed on the premises;

(b) Sell, at retail, from locked honor bars, in individual units, spirits not to exceed fifty milliliters, beer in individual units not to exceed twelve ounces, and wine in individual bottles not to exceed three hundred eighty-five milliliters, to registered guests of the hotel for consumption in guest rooms. The licensee ~~((shall))~~ must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest ~~((shall))~~ must also execute an affidavit verifying that no one under twenty-one years of age ~~((shall))~~ will have access to the spirits, beer, and wine in the honor bar;

(c) Provide without additional charge, to overnight guests, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited;

(d) Sell beer, including strong beer, wine, or spirits, in the manufacturer's sealed container or by the individual drink to guests through room service, or through service to occupants of private residential units which are part of the buildings or complex of buildings that include the hotel;

(e) Sell beer, including strong beer, spirits, or wine, in the manufacturer's sealed container at retail sales locations within the hotel premises;

(f) Sell beer to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap in the restaurant area by the licensee at the time of sale;

(g) Sell for on or off-premises consumption, including through room service and service to occupants of private residential units managed by the hotel, wine carrying a label exclusive to the hotel license holder;

(h) Place in guest rooms at check-in, a complimentary bottle of ~~((beer, including strong beer, or wine))~~ liquor in a manufacturer-sealed container, and make a reference to this service in promotional material.

(3) If all or any facilities for alcoholic beverage service and the preparation, cooking, and serving of food are operated under contract or joint venture agreement, the operator may hold a license separate from the license held by the operator of the hotel. Food and beverage inventory used in separate licensed operations at the hotel may not be shared and ~~((shall))~~ must be separately owned and stored by the separate licensees.

(4) All spirits to be sold under this license must be purchased from a spirits retailer or spirits distributor licensee of the board.

(5) All on-premise alcoholic beverage service must be done by an alcohol server as defined in RCW 66.20.300 and must comply with RCW 66.20.310.

(6)(a) The hotel license allows the licensee to remove from the liquor stocks at the licensed premises, liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived.

(b) The holder of this license ~~((shall))~~ must, if requested by the board, notify the board or its designee of the date, time, place, and location of any event. Upon request, the licensee ~~((shall))~~ must provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) Licensees may cater events on a domestic winery, brewery, or distillery premises.

(7) The holder of this license or its manager may furnish spirits, beer, or wine to the licensee's employees who are twenty-one years of age or older free of charge as may be required for use in connection with instruction on spirits, beer, and wine. The instruction may include the history, nature, values, and characteristics of spirits, beer, or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling spirits, beer, or wine. The licensee must use the ~~((beer or wine))~~ liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the licensee.

(8) Minors may be allowed in all areas of the hotel where ~~((alcohol))~~ liquor may be consumed; however, the consumption must be incidental to the primary use of the area. These areas include, but are not limited to, tennis courts, hotel lobbies, and swimming pool areas. If an area

is not a mixed use area, and is primarily used for alcohol service, the area must be designated and restricted to access by ~~((minors))~~ persons of lawful age to purchase liquor.

(9) The annual fee for this license is two thousand dollars.

(10) As used in this section, "hotel," "spirits," "beer," and "wine" have the meanings defined in RCW 66.24.410 and 66.04.010.

Sec. 116. RCW 66.28.040 and 2011 c 186 s 4, 2011 c 119 s 207, and 2011 c 62 s 4 are each reenacted and amended to read as follows:

Except as permitted by the board under RCW 66.20.010, no domestic brewery, microbrewery, distributor, distiller, domestic winery, importer, rectifier, certificate of approval holder, or other manufacturer of liquor ~~((shall))~~ may, within the state of Washington, give to any person any liquor; but nothing in this section nor in RCW 66.28.305 prevents a domestic brewery, microbrewery, distributor, domestic winery, distiller, certificate of approval holder, or importer from furnishing samples of beer, wine, or spirituous liquor to authorized licensees for the purpose of negotiating a sale, in accordance with regulations adopted by the liquor control board, provided that the samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210~~((, and in the case of spirituous liquor, any product used for samples must be purchased at retail from the board; nothing in this section shall prevent the furnishing of samples of liquor to the board for the purpose of negotiating the sale of liquor to the state liquor control board))~~; nothing in this section ~~((shall))~~ prevents a domestic brewery, microbrewery, domestic winery, distillery, certificate of approval holder, or distributor from furnishing beer, wine, or spirituous liquor for instructional purposes under RCW 66.28.150; nothing in this section ~~((shall))~~ prevents a domestic winery, certificate of approval holder, or distributor from furnishing wine without charge, subject to the taxes imposed by RCW 66.24.210, to a not-for-profit group organized and operated solely for the purpose of enology or the study of viticulture which has been in existence for at least six months and that uses wine so furnished solely for such educational purposes or a domestic winery, or an out-of-state certificate of approval holder, from furnishing wine without charge or a domestic brewery, or an out-of-state certificate of approval holder, from furnishing beer without charge, subject to the taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distiller licensed under RCW 66.24.140 or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310, from furnishing spirits without charge, to a nonprofit charitable corporation or association exempt from taxation under ~~((section))~~ 26 U.S.C. Sec. 501(c)(3) or (6) of the internal revenue code of 1986 (((26 U.S.C. Sec. 501(c)(3) or (6)))) for use consistent with the purpose or purposes entitling it to such exemption; nothing in this section ~~((shall))~~ prevents a domestic brewery or microbrewery from serving beer without charge, on the brewery premises; nothing in this section ~~((shall))~~ prevents donations of wine for the purposes of RCW 66.12.180; nothing in this section ~~((shall))~~ prevents a domestic winery from serving wine without charge, on the winery premises; nothing in this section ~~((shall))~~ prevents a craft distillery from serving spirits without charge, on the distillery premises subject to RCW 66.24.145; nothing in this section prohibits spirits sampling under chapter 186, Laws of 2011; and nothing in this section ~~((shall))~~ prevents a winery

or microbrewery from serving samples at a farmers market under section 1, chapter 62, Laws of 2011.

Sec. 117. RCW 66.28.060 and 2008 c 94 s 7 are each amended to read as follows:

Every distillery licensed under this title (~~((shall))~~) must make monthly reports to the board pursuant to the regulations. ~~((No such distillery shall make any sale of spirits within the state of Washington except to the board and as provided in RCW 66.24.145.))~~

Sec. 118. RCW 66.28.070 and 2006 c 302 s 8 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it (~~((shall be))~~) is unlawful for any retail ~~spirits, beer, or wine~~ licensee to purchase ~~spirits, beer, or wine~~, except from a duly licensed distributor, domestic winery, domestic brewer, or certificate of approval holder with a direct shipment endorsement(~~((, or the board))~~).

(2)(a) A ~~spirits, beer, or wine~~ retailer (~~((licensee))~~) may purchase ~~spirits, beer, or wine~~:

(i) From a government agency ((which)) that has lawfully seized ((beer or wine from)) liquor possessed by a licensed ((beer)) distributor or ((wine)) retailer((, or));

(ii) From a board-authorized ((retailer)) manufacturer or certificate holder authorized by this title to act as a distributor of liquor((, or));

(iii) From a licensed retailer which has discontinued business if the distributor has refused to accept ~~spirits, beer, or wine~~ from that retailer for return and refund((~~Beer and wine~~));

(iv) From a retailer whose license or license endorsement permits resale to a retailer of wine and/or spirits for consumption on the premises, if the purchasing retailer is authorized to sell such wine and/or spirits.

(b) Goods purchased under this subsection ((shall)) (2) must meet the quality standards set by ((its)) the manufacturer of the goods.

(3) Special occasion licensees holding a special occasion license may only purchase ~~spirits, beer, or wine~~ from a ~~spirits, beer, or wine~~ retailer duly licensed to sell ~~spirits, beer, or wine~~ for off-premises consumption, ~~((the board,))~~ or from a duly licensed ~~spirits, beer, or wine~~ distributor.

Sec. 119. RCW 66.28.170 and 2004 c 160 s 17 are each amended to read as follows:

It is unlawful for a manufacturer of spirits, wine, or malt beverages holding a certificate of approval (~~((issued under RCW 66.24.270 or 66.24.206))~~) or the manufacturer's authorized representative, a distillery, brewery, or a domestic winery to discriminate in price in selling to any purchaser for resale in the state of Washington. Price differentials for sales of spirits or wine based upon competitive conditions, costs of servicing a purchaser's account, efficiencies in handling goods, or other bona fide business factors, to the extent the differentials are not unlawful under trade regulation laws applicable to goods of all kinds, do not violate this section.

NEW SECTION. Sec. 120. A new section is added to chapter 66.28 RCW to read as follows:

(1) No price for spirits sold in the state by a distributor or other licensee acting as a distributor pursuant to this title may be below acquisition cost unless the item sold below

acquisition cost has been stocked by the seller for a period of at least six months. The seller may not restock the item for a period of one year following the first effective date of such below cost price.

(2) Spirits sold to retailers for resale for consumption on or off the licensed premises may be delivered to the retailer's licensed premises, to a location specified by the retailer and approved for deliveries by the board, or to a carrier engaged by either party to the transaction.

(3) In selling spirits to another retailer, to the extent consistent with the purposes of this act, a spirits retail licensee must comply with all provisions of and regulations under this title applicable to wholesale distributors selling spirits to retailers.

(4) A distiller holding a license or certificate of compliance as a distiller under this title may act as distributor in the state of spirits of its own production or of foreign-produced spirits it is entitled to import. The distiller must, to the extent consistent with the purposes of this act, comply with all provisions of and regulations under this title applicable to wholesale distributors selling spirits to retailers.

(5) With respect to any alleged violation of this title by sale of spirits at a discounted price, all defenses under applicable trade regulation laws are available, including without limitation good faith meeting of a competitor's lawful price and absence of harm to competition.

(6) Notwithstanding any other provision of law, no licensee may import, purchase, distribute, or accept delivery of any wine that is produced outside of the United States or any distilled spirits without the written consent of the brand owner or its authorized agent.

Sec. 121. RCW 66.28.180 and 2009 c 506 s 10 are each amended to read as follows:

(1) Beer and/or wine distributors.

(a) Every beer (~~((or wine))~~) distributor (~~((shall))~~) must maintain at its liquor-licensed location a price list showing the wholesale prices at which any and all brands of beer (~~((and wine))~~) sold by (~~((such beer and/or wine))~~) the distributor (~~((shall be))~~) are sold to retailers within the state.

(b) Each price list (~~((shall))~~) must set forth:

(i) All brands, types, packages, and containers of beer (~~((or wine))~~) offered for sale by (~~((such beer and/or wine))~~) the distributor; and

(ii) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(c) No beer (~~((and/or wine))~~) distributor may sell or offer to sell any package or container of beer (~~((or wine))~~) to any retail licensee at a price differing from the price for such package or container as shown in the price list, according to rules adopted by the board.

(d) Quantity discounts of sales prices of beer are prohibited. No distributor's sale price of beer may be below the distributor's acquisition cost.

(e) Distributor prices below acquisition cost on a "close-out" item (~~((shall be))~~) are allowed if the item to be discontinued has been listed for a period of at least six months, and upon the further condition that the distributor who offers such a close-out price (~~((shall))~~) may not restock the

item for a period of one year following the first effective date of such close-out price.

(f) Any beer ~~((and/or wine))~~ distributor ~~((or employee authorized by the distributor employer))~~ may sell beer ~~((and/or wine))~~ at the distributor's listed prices to any annual or special occasion retail licensee upon presentation to the distributor ~~((or employee))~~ at the time of purchase or delivery of an original or facsimile license or a special permit issued by the board to such licensee.

(g) Every annual or special occasion retail licensee, upon purchasing any beer ~~((and/or wine))~~ from a distributor, ~~((shall))~~ must immediately cause such beer ~~((or wine))~~ to be delivered to the licensed premises, and the licensee ~~((shall))~~ may not thereafter permit such beer to be disposed of in any manner except as authorized by the license.

(h) Beer ~~((and wine))~~ sold as provided in this section ~~((shall))~~ must be delivered by the distributor or an authorized employee either to the retailer's licensed premises or directly to the retailer at the distributor's licensed premises. When a ~~((domestic winery;))~~ brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement is acting as a distributor of beer of its own production, a licensed retailer may contract with a common carrier to obtain the ~~((product))~~ beer directly from the ~~((domestic winery;))~~ brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement. A distributor's prices to retail licensees ~~((shall))~~ for beer must be the same at both such places of delivery. Wine sold to retailers must be delivered to the retailer's licensed premises, to a location specified by the retailer and approved for deliveries by the board, or to a carrier engaged by either party to the transaction.

(2) Beer ~~((and wine))~~ suppliers' contracts and memoranda.

(a) Every domestic brewery, microbrewery, ~~((domestic winery;))~~ certificate of approval holder, and beer and/or wine importer offering beer ~~((and/or wine))~~ for sale to distributors within the state and any beer ~~((and/or wine))~~ distributor who sells to other beer ~~((and/or wine))~~ distributors ~~((shall))~~ must maintain at its liquor-licensed location a beer price list and a copy of every written contract and a memorandum of every oral agreement which such brewery ((or winery)) may have with any beer ((or wine)) distributor for the supply of beer, which contracts or memoranda ~~((shall))~~ must contain:

(i) All advertising, sales and trade allowances, and incentive programs; and

(ii) All commissions, bonuses or gifts, and any and all other discounts or allowances.

(b) Whenever changed or modified, such revised contracts or memoranda ~~((shall))~~ must also be maintained at its liquor licensed location.

(c) Each price list ~~((shall))~~ must set forth all brands, types, packages, and containers of beer ~~((or wine))~~ offered for sale by such ~~((licensed brewery or winery))~~ supplier.

(d) Prices of a domestic brewery, microbrewery, ~~((domestic winery;))~~ or certificate of approval holder ~~((shall))~~ for beer must be uniform prices to all distributors or retailers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts of suppliers' prices for beer are prohibited. No price ((shall)) may be below the supplier's acquisition((/)) or production cost.

(e) A domestic brewery, microbrewery, ~~((domestic winery;))~~ certificate of approval holder, ~~((beer or wine))~~

importer, or ~~((beer or wine))~~ distributor acting as a supplier to another distributor must file ~~((a distributor appointment))~~ with the board a list of all distributor licensees of the board to which it sells or offers to sell beer.

(f) No domestic brewery, microbrewery, ~~((domestic winery;))~~ or certificate of approval holder may sell or offer to sell any package or container of beer ~~((or wine))~~ to any distributor at a price differing from the price list for such package or container as shown in the price list of the domestic brewery, microbrewery, ~~((domestic winery;))~~ or certificate of approval holder and then in effect, according to rules adopted by the board.

(3) In selling wine to another retailer, to the extent consistent with the purposes of this act, a grocery store licensee with a reseller endorsement must comply with all provisions of and regulations under this title applicable to wholesale distributors selling wine to retailers.

(4) With respect to any alleged violation of this title by sale of wine at a discounted price, all defenses under applicable trade regulation laws are available including, without limitation, good faith meeting of a competitor's lawful price and absence of harm to competition.

Sec. 122. RCW 66.28.190 and 2003 c 168 s 305 are each amended to read as follows:

~~((RCW 66.28.010))~~ (1) Any other provision of this title notwithstanding, persons licensed under ((RCW 66.24.200 as wine distributors and persons licensed under RCW 66.24.250 as beer distributors)) this title to sell liquor for resale may sell at wholesale nonliquor food and food ingredients on thirty-day credit terms to persons licensed as retailers under this title, but complete and separate accounting records ((shall)) must be maintained on all sales of nonliquor food and food ingredients to ensure that such persons are in compliance with ((RCW 66.28.010)) this title.

(2) For the purpose of this section, "nonliquor food and food ingredients" includes, without limitation, all food and food ingredients for human consumption as defined in RCW 82.08.0293 as it ((exists)) existed on July 1, 2004.

NEW SECTION. Sec. 123. A new section is added to chapter 66.28 RCW to read as follows:

A retailer authorized to sell wine may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed retailers, to other registered facilities, or to lawful purchasers outside the state; such facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers including at least one retailer licensed to sell wine. A restaurant retailer authorized to sell spirits may accept delivery of spirits at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed retailers, to other registered facilities, or to lawful purchasers outside the state; such facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers including at least one restaurant retailer licensed to sell spirits. Nothing in this section authorizes sales of spirits or wine by a retailer holding only an on-sale privilege to another retailer.

Sec. 124. RCW 66.28.280 and 2009 c 506 s 1 are each amended to read as follows:

~~((The legislature recognizes that Washington's current three-tier system, where the functions of manufacturing, distributing, and retailing are distinct and the financial relationships and business transactions between entities in these tiers are regulated, is a valuable system for the distribution of beer and wine.))~~ The legislature ~~((further))~~ recognizes that the historical total prohibition on ownership of an interest in one tier by a person with an ownership interest in another tier, as well as the historical restriction on financial incentives and business relationships between tiers, is unduly restrictive. The legislature finds the ~~((modifications contained in chapter 506, Laws of 2009 are appropriate, because the modifications))~~ provisions of RCW 66.28.285 through 66.28.320 appropriate for all varieties of liquor, ~~because they~~ do not impermissibly interfere with ~~((the goals of orderly marketing of alcohol in the state, encouraging moderation in consumption of alcohol by the citizens of the state,))~~ protecting the public interest and advancing public safety by preventing the use and consumption of alcohol by minors and other abusive consumption, and promoting the efficient collection of taxes by the state.

NEW SECTION. Sec. 125. A new section is added to chapter 66.04 RCW to read as follows:

In this title, unless the context otherwise requires:

(1) "Retailer" except as expressly defined by RCW 66.28.285(5) with respect to its use in RCW 6.28280 through 66.28.315, means the holder of a license or permit issued by the board authorizing sale of liquor to consumers for consumption on and/or off the premises. With respect to retailer licenses, "on-sale" refers to the license privilege of selling for consumption upon the licensed premises.

(2) "Spirits distributor" means a person, other than a person who holds only a retail license, who buys spirits from a domestic distiller, manufacturer, supplier, spirits distributor, or spirits importer, or who acquires foreign-produced spirits from a source outside of the United States, for the purpose of reselling the same not in violation of this title, or who represents such distiller as agent.

(3) "Spirits importer" means a person who buys distilled spirits from a distiller outside the state of Washington and imports such spirits into the state for sale or export.

PART II LIQUOR CONTROL BOARD--DISCONTINUING RETAIL SALES--TECHNICAL CHANGES

Sec. 201. RCW 43.19.19054 and 1975-'76 2nd ex.s. c 21 s 7 are each amended to read as follows:

The provisions of RCW 43.19.1905 ~~((shall))~~ do not apply to materials, supplies, and equipment purchased for resale to other than public agencies by state agencies, including educational institutions. ~~((In addition, RCW 43.19.1905 shall not apply to liquor purchased by the state for resale under the provisions of Title 66 RCW.))~~

Sec. 202. RCW 66.08.020 and 1933 ex.s. c 62 s 5 are each amended to read as follows:

The administration of this title~~((, including the general control, management and supervision of all liquor stores, shall be))~~ is vested in the liquor control board, constituted under this title.

Sec. 203. RCW 66.08.026 and 2008 c 67 s 1 are each amended to read as follows:

Administrative expenses of the board ~~((shall))~~ must be appropriated and paid from the liquor revolving fund. These administrative expenses ~~((shall))~~ include, but not be limited to: The salaries and expenses of the board and its employees, ~~((the cost of opening additional state liquor stores and warehouses,))~~ legal services, pilot projects, annual or other audits, and other general costs of conducting the business of the board. The administrative expenses ~~((shall))~~ do not include ~~((costs of liquor and lottery tickets purchased, the cost of transportation and delivery to the point of distribution, the cost of operating, maintaining, relocating, and leasing state liquor stores and warehouses, other costs pertaining to the acquisition and receipt of liquor and lottery tickets, agency commissions for contract liquor stores, transaction fees associated with credit or debit card purchases for liquor in state liquor stores and in contract liquor stores pursuant to RCW 66.16.040 and 66.16.041, sales tax, and))~~ those amounts distributed pursuant to RCW 66.08.180, 66.08.190, 66.08.200, or 66.08.210 ~~((and 66.08.220)).~~ Agency commissions for contract liquor stores ~~((shall))~~ must be established by the liquor control board after consultation with and approval by the director of the office of financial management. All expenditures and payment of obligations authorized by this section are subject to the allotment requirements of chapter 43.88 RCW.

Sec. 204. RCW 66.08.030 and 2002 c 119 s 2 are each amended to read as follows:

~~((1) For the purpose of carrying into effect the provisions of this title according to their true intent or of supplying any deficiency therein, the board may make such regulations not inconsistent with the spirit of this title as are deemed necessary or advisable. All regulations so made shall be a public record and shall be filed in the office of the code reviser, and thereupon shall have the same force and effect as if incorporated in this title. Such regulations, together with a copy of this title, shall be published in pamphlets and shall be distributed as directed by the board.~~

~~—(2) Without thereby limiting the generality of the provisions contained in subsection (1), it is declared that) The power of the board to make regulations ((in the manner set out in that subsection shall))~~ under chapter 34.05 RCW extends to

~~((a) regulating the equipment and management of stores and warehouses in which state liquor is sold or kept, and prescribing the books and records to be kept therein and the reports to be made thereon to the board;~~

~~—(b));~~

~~—(1) Prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;~~

~~((c) governing the purchase of liquor by the state and the furnishing of liquor to stores established under this title;~~

~~—(d) determining the classes, varieties, and brands of liquor to be kept for sale at any store;~~

~~—(e) prescribing, subject to RCW 66.16.080, the hours during which the state liquor stores shall be kept open for the sale of liquor;~~

~~—(f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each variety of liquor kept for sale under this title;~~

—(g)) (2) Prescribing an official seal and official labels and stamps and determining the manner in which they ((shall)) must be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;

((h)) ~~providing for the payment by the board in whole or in part of the carrying charges on liquor shipped by freight or express;~~

—(i)) (3) Prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title, and the qualifications for receiving a permit or license issued under this title, including a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board ((shall)) must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

((j)) (4) Prescribing the fees payable in respect of permits and licenses issued under this title for which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

((k)) (5) Prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same ((shall be)) is kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

((l)) (6) Regulating the sale of liquor kept by the holders of licenses which entitle the holder to purchase and keep liquor for sale;

((m)) (7) Prescribing the records of purchases or sales of liquor kept by the holders of licenses, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

((n)) (8) Prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

((o)) (9) Prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

((p)) (10) Regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

((q)) (11) Prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

((r)) (12) Prescribing the conditions, accommodations, and qualifications requisite for the obtaining of licenses to

sell beer ((and)), wines, and spirits, and regulating the sale of beer ((and)), wines, and spirits thereunder;

((s)) (13) Specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers ((shall)) must deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

((t)) (14) Providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

((u)) (15) Providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

((v)) (16) Providing for the making of returns by any other liquor manufacturers, showing the gross amount of liquor produced or purchased, the amount sold within and exported from the state, and to whom so sold or exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

((w)) (17) Providing for the giving of fidelity bonds by any or all of the employees of the board ~~((: PROVIDED, That))~~. However, the premiums therefor ((shall)) must be paid by the board;

((x)) (18) Providing for the shipment ~~((by mail or common carrier))~~ of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

((y)) (19) Prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

((z)) (20) Seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board ~~((: PROVIDED,))~~. However, nothing herein contained ((shall)) may be construed as authorizing the liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages.

Sec. 205. RCW 66.24.145 and 2010 c 290 s 2 are each amended to read as follows:

(1) Any craft distillery may sell spirits of its own production for consumption off the premises, up to two liters per person per day. ~~((Spirits sold under this subsection must be purchased from the board and sold at the retail price established by the board.))~~ A craft distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers.

(2) Any craft distillery may contract distill spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(3) Any craft distillery licensed under this section may provide, free of charge, one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. ~~((Spirits used for samples must be purchased from the board.))~~

(4) The board ~~((shall))~~ must adopt rules to implement the alcohol server permit requirement and may adopt additional rules to implement this section.

(5) Distilling is an agricultural practice.

NEW SECTION. Sec. 206. A new section is added to chapter 66.24 RCW to read as follows:

Any distiller licensed under this title may act as a retailer and/or distributor to retailers selling for consumption on or off the licensed premises of spirits of its own production, and any manufacturer, importer, or bottler of spirits holding a certificate of approval may act as a distributor of spirits if it is entitled to import into the state under such certificate. The board must by rule provide for issuance of certificates of approval to spirits suppliers. An industry member operating as a distributor and/or retailer under this section must comply with the applicable laws and rules relating to distributors and/or retailers, except that an industry member operating as a distributor under this section may maintain a warehouse off the distillery premises for the distribution of spirits of its own production to spirits retailers within the state, if the warehouse is within the United States and has been approved by the board.

Sec. 207. RCW 66.24.160 and 1981 1st ex.s. c 5 s 30 are each amended to read as follows:

A ~~((liquor))~~ spirits importer's license may be issued to any qualified person, firm or corporation, entitling the holder thereof to import into the state any liquor other than beer or wine; to store the same within the state, and to sell and export the same from the state; fee six hundred dollars per annum. Such ~~((liquor))~~ spirits importer's license ~~((shall be))~~ is subject to all conditions and restrictions imposed by this title or by the rules and regulations of the board, and ~~((shall be))~~ is issued only upon such terms and conditions as may be imposed by the board. ~~((No liquor importer's license shall be required in sales to the Washington state liquor control board.))~~

Sec. 208. RCW 66.32.010 and 1955 c 39 s 3 are each amended to read as follows:

~~((Except as permitted by))~~ The board may, ~~((no liquor shall be kept or had by any person within this state unless the package in which the liquor was contained had, while containing that liquor, been))~~ to the extent required to control unlawful diversion of liquor from authorized channels of distribution, require that packages of liquor transported within the state be sealed with ((the)) such official seal as may be adopted by the board, except in the case of:

(1) ~~((Liquor imported by the board; or~~
~~—((2))~~ Liquor manufactured in the state ~~((for sale to the board or for export))~~; or

~~((3) Beer,))~~ (2) Liquor purchased within the state or for shipment to a consumer within the state in accordance with the provisions of law; or

~~((4))~~ (3) Wine or beer exempted in RCW 66.12.010.

Sec. 209. RCW 66.44.120 and 2011 c 96 s 46 are each amended to read as follows:

(1) No person other than an employee of the board ~~((shall))~~ may keep or have in his or her possession any official seal ~~((prescribed))~~ adopted by the board under this title, unless the same is attached to a package ~~((which has been purchased from a liquor store or contract liquor store))~~ in accordance with the law; nor ~~((shall))~~ may any person keep or have in his or her possession any design in imitation of any official seal prescribed under this title, or calculated to deceive by its resemblance thereto, or any paper upon which any design in imitation thereof, or calculated to deceive as aforesaid, is stamped, engraved, lithographed, printed, or otherwise marked.

(2)(a) Except as provided in (b) of this subsection, every person who willfully violates this section is guilty of a gross misdemeanor and ~~((shall be))~~ is liable on conviction thereof for a first offense to imprisonment in the county jail for a period of not less than three months nor more than six months, without the option of the payment of a fine, and for a second offense, to imprisonment in the county jail for not less than six months nor more than three hundred sixty-four days, without the option of the payment of a fine.

(b) A third or subsequent offense is a class C felony, punishable by imprisonment in a state correctional facility for not less than one year nor more than two years.

Sec. 210. RCW 66.44.150 and 1955 c 289 s 5 are each amended to read as follows:

If any person in this state buys alcoholic beverages from any person other than ~~((the board, a state liquor store, or some))~~ a person authorized by the board to sell ~~((them, he shall be))~~ alcoholic beverages, he or she is guilty of a misdemeanor.

Sec. 211. RCW 66.44.340 and 1999 c 281 s 11 are each amended to read as follows:

(1) Employers holding grocery store or beer and/or wine specialty shop licenses exclusively are permitted to allow their employees, between the ages of eighteen and twenty-one years, to sell, stock, and handle ~~((beer or wine))~~ liquor in, on or about any establishment holding a ~~((grocery store or beer and/or wine specialty shop))~~ license ((exclusively: PROVIDED, That)) to sell such liquor, if:

(a) There is an adult twenty-one years of age or older on duty supervising the sale of liquor at the licensed premises((: PROVIDED, That)); and

(b) In the case of spirits, there are at least two adults twenty-one years of age or older on duty supervising the sale of spirits at the licensed premises.

(2) Employees under twenty-one years of age may make deliveries of beer and/or wine purchased from licensees holding grocery store or beer and/or wine specialty shop licenses exclusively, when delivery is made to cars of customers adjacent to such licensed premises but only, however, when the underage employee is accompanied by the purchaser.

Sec. 212. RCW 19.126.010 and 2003 c 59 s 1 are each amended to read as follows:

(1) The legislature recognizes that both suppliers and wholesale distributors of malt beverages and spirits are

interested in the goal of best serving the public interest through the fair, efficient, and competitive distribution of such beverages. The legislature encourages them to achieve this goal by:

(a) Assuring the wholesale distributor's freedom to manage the business enterprise, including the wholesale distributor's right to independently establish its selling prices; and

(b) Assuring the supplier and the public of service from wholesale distributors who will devote their best competitive efforts and resources to sales and distribution of the supplier's products which the wholesale distributor has been granted the right to sell and distribute.

(2) This chapter governs the relationship between suppliers of malt beverages and spirits and their wholesale distributors to the full extent consistent with the Constitution and laws of this state and of the United States.

Sec. 213. RCW 19.126.020 and 2009 c 155 s 1 are each reenacted and amended to read as follows:

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

(1) "Agreement of distributorship" means any contract, agreement, commercial relationship, license, association, or any other arrangement, for a definite or indefinite period, between a supplier and distributor.

(2) "Authorized representative" has the same meaning as "authorized representative" as defined in RCW 66.04.010.

(3) "Brand" means any word, name, group of letters, symbol, or combination thereof, including the name of the distiller or brewer if the distiller's or brewer's name is also a significant part of the product name, adopted and used by a supplier to identify ~~((a))~~ specific spirits or a specific malt beverage product and to distinguish that product from other spirits or malt beverages produced by that supplier or other suppliers.

(4) "Distributor" means any person, including but not limited to a component of a supplier's distribution system constituted as an independent business, importing or causing to be imported into this state, or purchasing or causing to be purchased within this state, any spirits or malt beverages for sale or resale to retailers licensed under the laws of this state, regardless of whether the business of such person is conducted under the terms of any agreement with a distiller or malt beverage manufacturer.

(5) "Importer" means any distributor importing spirits or beer into this state for sale to retailer accounts or for sale to other distributors designated as "subjobbers" for resale.

(6) "Malt beverage manufacturer" means every brewer, fermenter, processor, bottler, or packager of malt beverages located within or outside this state, or any other person, whether located within or outside this state, who enters into an agreement of distributorship for the resale of malt beverages in this state with any wholesale distributor doing business in the state of Washington.

(7) "Person" means any natural person, corporation, partnership, trust, agency, or other entity, as well as any individual officers, directors, or other persons in active control of the activities of such entity.

(8) "Spirits manufacturer" means every distiller, processor, bottler, or packager of spirits located within or

outside this state, or any other person, whether located within or outside this state, who enters into an agreement of distributorship for the resale of spirits in this state with any wholesale distributor doing business in the state of Washington.

~~((9))~~ (9) "Successor distributor" means any distributor who enters into an agreement, whether oral or written, to distribute a brand of spirits or malt beverages after the supplier with whom such agreement is made or the person from whom that supplier acquired the right to manufacture or distribute the brand has terminated, canceled, or failed to renew an agreement of distributorship, whether oral or written, with another distributor to distribute that same brand of spirits or malt beverages.

~~((10))~~ (10) "Supplier" means any spirits or malt beverage manufacturer or importer who enters into or is a party to any agreement of distributorship with a wholesale distributor. "Supplier" does not include: (a) Any ~~((domestic))~~ distiller licensed under RCW 66.24.140 or 66.24.145 and producing less than sixty thousand proof gallons of spirits annually or any brewery or microbrewery licensed under RCW 66.24.240 and producing less than two hundred thousand barrels of malt liquor annually; (b) any brewer or manufacturer of malt liquor producing less than two hundred thousand barrels of malt liquor annually and holding a certificate of approval issued under RCW 66.24.270; or (c) any authorized representative of distillers or malt liquor manufacturers who holds an appointment from one or more distillers or malt liquor manufacturers which, in the aggregate, produce less than two hundred thousand barrels of malt liquor or sixty thousand proof gallons of spirits.

~~((11))~~ (11) "Terminated distribution rights" means distribution rights with respect to a brand of malt beverages which are lost by a terminated distributor as a result of termination, cancellation, or nonrenewal of an agreement of distributorship for that brand.

~~((12))~~ (12) "Terminated distributor" means a distributor whose agreement of distributorship with respect to a brand of spirits or malt beverages, whether oral or written, has been terminated, canceled, or not renewed.

Sec. 214. RCW 19.126.040 and 2009 c 155 s 3 are each amended to read as follows:

Wholesale distributors are entitled to the following protections which are deemed to be incorporated into every agreement of distributorship:

(1) Agreements between wholesale distributors and suppliers ~~((shall))~~ must be in writing;

(2) A supplier ~~((shall))~~ must give the wholesale distributor at least sixty days prior written notice of the supplier's intent to cancel or otherwise terminate the agreement, unless such termination is based on a reason set forth in RCW 19.126.030(5) or results from a supplier acquiring the right to manufacture or distribute a particular brand and electing to have that brand handled by a different distributor. The notice ~~((shall))~~ must state all the reasons for the intended termination or cancellation. Upon receipt of notice, the wholesale distributor ~~((shall have))~~ has sixty days in which to rectify any claimed deficiency. If the deficiency is rectified within this sixty-day period, the proposed termination or cancellation is null and void and without legal effect;

(3) The wholesale distributor may sell or transfer its business, or any portion thereof, including the agreement, to successors in interest upon prior approval of the transfer by the supplier. No supplier may unreasonably withhold or delay its approval of any transfer, including wholesaler's rights and obligations under the terms of the agreement, if the person or persons to be substituted meet reasonable standards imposed by the supplier;

(4) If an agreement of distributorship is terminated, canceled, or not renewed for any reason other than for cause, failure to live up to the terms and conditions of the agreement, or a reason set forth in RCW 19.126.030(5), the wholesale distributor is entitled to compensation from the successor distributor for the laid-in cost of inventory and for the fair market value of the terminated distribution rights. For purposes of this section, termination, cancellation, or nonrenewal of a distributor's right to distribute a particular brand constitutes termination, cancellation, or nonrenewal of an agreement of distributorship whether or not the distributor retains the right to continue distribution of other brands for the supplier. In the case of terminated distribution rights resulting from a supplier acquiring the right to manufacture or distribute a particular brand and electing to have that brand handled by a different distributor, the affected distribution rights will not transfer until such time as the compensation to be paid to the terminated distributor has been finally determined by agreement or arbitration;

(5) When a terminated distributor is entitled to compensation under subsection (4) of this section, a successor distributor must compensate the terminated distributor for the fair market value of the terminated distributor's rights to distribute the brand, less any amount paid to the terminated distributor by a supplier or other person with respect to the terminated distribution rights for the brand. If the terminated distributor's distribution rights to a brand of spirits or malt beverages are divided among two or more successor distributors, each successor distributor must compensate the terminated distributor for the fair market value of the distribution rights assumed by that successor distributor, less any amount paid to the terminated distributor by a supplier or other person with respect to the terminated distribution rights assumed by the successor distributor. A terminated distributor may not receive total compensation under this subsection that exceeds the fair market value of the terminated distributor's distribution rights with respect to the affected brand. Nothing in this section (~~shall~~) may be construed to require any supplier or other third person to make any payment to a terminated distributor;

(6) For purposes of this section, the "fair market value" of distribution rights as to a particular brand means the amount that a willing buyer would pay and a willing seller would accept for such distribution rights when neither is acting under compulsion and both have knowledge of all facts material to the transaction. "Fair market value" is determined as of the date on which the distribution rights are to be transferred in accordance with subsection (4) of this section;

(7) In the event the terminated distributor and the successor distributor do not agree on the fair market value of the affected distribution rights within thirty days after the terminated distributor is given notice of termination, the matter must be submitted to binding arbitration. Unless the parties agree otherwise, such arbitration must be conducted in accordance with the American arbitration association

commercial arbitration rules with each party to bear its own costs and attorneys' fees;

(8) Unless the parties otherwise agree, or the arbitrator for good cause shown orders otherwise, an arbitration conducted pursuant to subsection (7) of this section must proceed as follows: (a) The notice of intent to arbitrate must be served within forty days after the terminated distributor receives notice of terminated distribution rights; (b) the arbitration must be conducted within ninety days after service of the notice of intent to arbitrate; and (c) the arbitrator or arbitrators must issue an order within thirty days after completion of the arbitration;

(9) In the event of a material change in the terms of an agreement of distribution, the revised agreement must be considered a new agreement for purposes of determining the law applicable to the agreement after the date of the material change, whether or not the agreement of distribution is or purports to be a continuing agreement and without regard to the process by which the material change is effected.

NEW SECTION. Sec. 215. The following acts or parts of acts are each repealed:

(1) RCW 66.08.070 (Purchase of liquor by board -Consignment not prohibited -Warranty or affirmation not required for wine or malt purchases) and 1985 c 226 s 2, 1973 1st ex.s. c 209 s 1, & 1933 ex.s. c 62 s 67;

(2) RCW 66.08.075 (Officer, employee not to represent manufacturer, wholesaler in sale to board) and 1937 c 217 s 5;

(3) RCW 66.08.160 (Acquisition of warehouse authorized) and 1947 c 134 s 1;

(4) RCW 66.08.165 (Strategies to improve operational efficiency and revenue) and 2005 c 231 s 1;

(5) RCW 66.08.166 (Sunday sales authorized--Store selection and other requirements) and 2005 c 231 s 2;

(6) RCW 66.08.167 (Sunday sales--Store selection) and 2005 c 231 s 4;

(7) RCW 66.08.220 (Liquor revolving fund -Separate account -Distribution) and 2011 c 325 s 8, 2009 c 271 s 4, 2007 c 370 s 15, 1999 c 281 s 2, & 1949 c 5 s 11;

(8) RCW 66.08.235 (Liquor control board construction and maintenance account) and 2011 c 5 s 918, 2005 c 151 s 4, 2002 c 371 s 918, & 1997 c 75 s 1;

(9) RCW 66.16.010 (Board may establish -Price standards -Prices in special instances) and 2005 c 518 s 935, 2003 1st sp.s. c 25 s 928, 1939 c 172 s 10, 1937 c 62 s 1, & 1933 ex.s. c 62 s 4;

(10) RCW 66.16.040 (Sales of liquor by employees -Identification cards -Permit holders -Sales for cash -Exception) and 2005 c 206 s 1, 2005 c 151 s 5, 2005 c 102 s 1, 2004 c 61 s 1, 1996 c 291 s 1, 1995 c 16 s 1, 1981 1st ex.s. c 5 s 8, 1979 c 158 s 217, 1973 1st ex.s. c 209 s 3, 1971 ex.s. c 15 s 1, 1959 c 111 s 1, & 1933 ex.s. c 62 s 7;

(11) RCW 66.16.041 (Credit and debit card purchases -Rules -Provision, installation, maintenance of equipment by board -Consideration of offsetting liquor revolving fund balance reduction) and 2011 1st sp.s. c ... (ESSB 5921) s 16, 2005 c 151 s 6, 2004 c 63 s 2, 1998 c 265 s 3, 1997 c 148 s 2, & 1996 c 291 s 2;

(12) RCW 66.16.050 (Sale of beer and wine to person licensed to sell) and 1933 ex.s. c 62 s 8;

(13) RCW 66.16.060 (Sealed packages may be required, exception) and 1943 c 216 s 1 & 1933 ex.s. c 62 s 9;

(14) RCW 66.16.070 (Liquor cannot be opened or consumed on store premises) and 2011 c 186 s 3 & 1933 ex.s. c 62 s 10;

(15) RCW 66.16.100 (Fortified wine sales) and 1997 c 321 s 42 & 1987 c 386 s 5;

(16) RCW 66.16.110 (Birth defects from alcohol -Warning required) and 1993 c 422 s 2;

(17) RCW 66.16.120 (Employees working on Sabbath) and 2005 c 231 s 5; and

(18) RCW 66.28.045 (Furnishing samples to board -Standards for accountability -Regulations) and 1975 1st ex.s. c 173 s 9.

NEW SECTION. Sec. 216. The following acts or parts of acts are each repealed:

(1) ESSB 5942 ss 1 through 6, as later assigned a session law number and/or codified;

(2) ESSB 5942 ss 7 through 10, as later assigned a session law number; and

(3) Any act or part of act relating to the warehousing and distribution of liquor, including the lease of the state's liquor warehousing and distribution facilities, adopted subsequent to May 25, 2011 in any 2011 special session.

PART III

MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 301. This act does not increase any tax, create any new tax, or eliminate any tax. Section 106 of this act applies to spirits licensees upon the effective date of this section, but all taxes presently imposed by RCW 82.08.150 on sales of spirits by or on behalf of the liquor control board continue to apply so long as the liquor control board makes any such sales.

NEW SECTION. Sec. 302. A new section is added to chapter 66.24 RCW to read as follows:

The distribution of spirits license fees under sections 103 and 105 of this act through the liquor revolving fund to border areas, counties, cities, towns, and the municipal research center must be made in a manner that provides that each category of recipients receive, in the aggregate, no less than it received from the liquor revolving fund during comparable periods prior to the effective date of this section. An additional distribution of ten million dollars per year from the spirits license fees must be provided to border areas, counties, cities, and towns through the liquor revolving fund for the purpose of enhancing public safety programs.

NEW SECTION. Sec. 303. The department of revenue must develop rules and procedures to address claims that this act unconstitutionally impairs any contract with the state and to provide a means for reasonable compensation of claims it finds valid, funded first from revenues based on spirits licensing and sale under this act.

NEW SECTION. Sec. 304. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of this act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 305. This act takes effect upon approval by the voters. Section 216, subsections (1) and (2) of this act take effect if Engrossed Substitute House Bill No. 5942 is enacted by the legislature in 2011 and the bill, or any portion of it, becomes law. Section 216, subsection (3) of this act takes effect if any act or part of an act relating to the warehousing and distribution of liquor, including the lease of the state's liquor warehousing and distribution facilities, is adopted subsequent to May 25, 2011 in any 2011 special session.

--- END ---

Complete Text

Senate Joint Resolution 8205

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article VI of the Constitution of the state of Washington by repealing section 1A thereof in its entirety.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

--- END ---

Complete Text

Senate Joint Resolution 8206

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article VII, section 12 of the Constitution of the state of Washington to read as follows:

Article VII, section 12. (a) A budget stabilization account shall be established and maintained in the state treasury.

(b)(1) By June 30th of each fiscal year, an amount equal to one percent of the general state revenues for that fiscal year shall be transferred to the budget stabilization account. Nothing in this subsection (b) shall prevent the appropriation of additional amounts to the budget stabilization account.

(2) By June 30th of the second year of each fiscal biennium, three-quarters of any extraordinary revenue growth shall be transferred to the budget stabilization account. However, no transfer of extraordinary revenue growth under this subsection (b)(2) shall occur in a fiscal biennium following a fiscal biennium in which annual average state employment growth averaged less than one percent per fiscal year. "Extraordinary revenue growth" means the amount by which the growth in general state revenues for that fiscal biennium exceeds by one-third the average biennial percentage growth in general state revenues over the prior five fiscal biennia. In making this determination, the comparability of data shall be maintained by adjusting historical general state revenues to reflect statutory changes to the dedication of state revenues. The transfer under this subsection shall be made only to the extent that it exceeds the total transfers under (1) of this subsection for that fiscal biennium.

(c) Each fiscal quarter, the state economic and revenue forecast council appointed and authorized as provided by statute, or successor entity, shall estimate state employment growth for the current and next two fiscal years.

(d) Moneys may be withdrawn and appropriated from the budget stabilization account as follows:

(i) If the governor declares a state of emergency resulting from a catastrophic event that necessitates government action to protect life or public safety, then for that fiscal year moneys may be withdrawn and appropriated from the budget stabilization account, via separate legislation setting forth the nature of the emergency and containing an appropriation limited to the above-authorized purposes as contained in the declaration, by a favorable vote of a majority of the members elected to each house of the legislature.

(ii) If the employment growth forecast for any fiscal year is estimated to be less than one percent, then for that fiscal year moneys may be withdrawn and appropriated from the budget stabilization account by the favorable vote of a majority of the members elected to each house of the legislature.

(iii) Any amount may be withdrawn and appropriated from the budget stabilization account at any time by the

favorable vote of at least three-fifths of the members of each house of the legislature.

(e) Amounts in the budget stabilization account may be invested as provided by law and retained in that account. When the balance in the budget stabilization account, including investment earnings, equals more than ten percent of the estimated general state revenues in that fiscal year, the legislature by the favorable vote of a majority of the members elected to each house of the legislature may withdraw and appropriate the balance to the extent that the balance exceeds ten percent of the estimated general state revenues. Appropriations under this subsection (e) may be made solely for deposit to the education construction fund.

(f) As used in this section, "general state revenues" has the meaning set forth in Article VIII, section 1 of the Constitution. Forecasts and estimates shall be made by the state economic and revenue forecast council appointed and authorized as provided by statute, or successor entity.

(g) The legislature shall enact appropriate laws to carry out the purposes of this section.

(h) This section takes effect July 1, 2008.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

--- END ---

Have questions?

Your county elections department has answers.

Contact your county elections department to:

- Verify or update your voter registration;
- Get a replacement ballot; or
- Find your nearest ballot drop box.

Visit a county voting center for:

- Voter registration materials;
- Ballots;
- Provisional ballots;
- Accessible voting;
- Sample ballots;
- Instructions;
- A ballot drop box; or
- Additional voters' pamphlets.

Your voting rights and responsibilities.

You have the right to:

- A replacement ballot;
- Accessible voting materials; and
- Assistance when casting a ballot.

You are responsible for:

- Registering by the deadline;
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- Returning your ballot by 8 pm on Election Day.

Military voters!

You can register anytime before Election Day, regardless of the deadline.

You can request a ballot be delivered via email.

Contact your county elections department.

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Everett, WA 98201
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Wahkiakum County

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State of Washington

Voters' Pamphlet

November 8, 2011 General Election



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