AN ACT relating to best system emission reduction for existing electric generating units.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Kentucky General Assembly hereby finds and declares that:

(1) The United States Environmental Protection Agency intends to adopt guidelines to reduce carbon dioxide emissions from existing fossil fuel-fired electric generating units under 42 U.S.C. sec. 7411(d);

(2) The United States Congress charges states, rather than the United States Environmental Protection Agency, with establishing standards of performance under 42 U.S.C. sec. 7411(d) for existing stationary sources including fossil fuel-fired electric generating units as a means of furthering the scheme of cooperative federalism under the federal Clean Air Act and with ensuring that the states have the primary role in managing their own economic and environmental resources;

and

(3) Providing reliable and affordable electricity through using various energy feedstocks for electric generation including coal, natural gas, nuclear, and renewable resources, as well as using energy efficiently will provide economic and environmental benefits for the citizens of the Commonwealth of Kentucky;

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) In developing and implementing any plan to control emissions of carbon dioxide the cabinet shall establish separate standards of performance for carbon dioxide emissions in accordance with:

(a) Section 3 of this Act for existing coal-fired electric generating units; and

(b) Section 4 of this Act for existing natural gas-fired electric generating units.
(2) Performance standards shall be adjusted on a case-by-case basis in accordance with Section 5 of this Act and shall be implemented in accordance with Section 6 of this Act.

 SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Except for adjustments of the performance standard on a case-by-case basis under Section 5 of this Act, the performance standard that shall be established for existing coal-fired electric generating units shall be based on the following:

(1) The best system of emission reduction which has been adequately demonstrated for coal-fired electric generating units subject to the performance standard. Best system of emission reduction shall take into account the cost of:

(a) Achieving the emission reduction;

(b) Impacting non-air quality health and the environment; and

(c) Maintaining energy requirements needed to serve the load on the electric generating unit;

(2) Reductions in emissions of carbon dioxide that can reasonably be achieved through measures undertaken at each coal-fired electric generating unit; and

(3) Efficiency and other measures that can be undertaken at each coal-fired electric generating unit to reduce its carbon dioxide emissions without doing the following:

(a) Switching from coal to other fuels;

(b) Co-firing other fuels with coal; or

(c) Limiting the utilization of the electric generating unit.

 SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Except for adjustments of the performance standard on a case-by-case basis under Section 5 of this Act, the performance standard that shall be established for existing
gas-fired electric generating units shall be based on the following:

(1) The best system of emission reduction which has been adequately demonstrated for gas-fired electric generating units subject to the performance standard. Best system of emission reduction shall take into account the cost of:
   (a) Achieving the emission reduction;
   (b) Impacting non-air quality health and the environment; and
   (c) Maintaining energy requirements needed to serve the load of the electric generating unit;

(2) Reductions in emissions of carbon dioxide that can reasonably be achieved through measures undertaken at each gas-fired electric generating unit; and

(3) Efficiency and other measures that can be undertaken at the unit to reduce carbon dioxide emissions from the unit without switching from natural gas to other fuels that emit less carbon dioxide than natural gas or by limiting the utilization of the electric generating unit.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

In establishing a performance standard for any existing fossil fuel-fired electric generating unit, the cabinet shall consider, in all cases, whether to adopt less stringent performance standards or longer compliance schedules for those units than are established in applicable federal rules or guidelines. The decision to adopt a less stringent performance standard or longer compliance schedules shall be based on the following:

(1) Consumer impacts including any disproportionate energy price increases on lower income populations;

(2) Unreasonable costs of reducing emissions of carbon dioxide resulting from the age, location, or basic process design of the electric generating unit;

(3) Physical difficulties with or the impossibility of implementing emission reduction
measures for carbon dioxide;

(4) The absolute cost of applying the performance standard to the electric generating unit;

(5) The expected remaining useful life of the electric generating unit;

(6) The economic impacts of closing the electric generating unit, including expected job losses, if the unit is unable to comply with the performance standard; and

(7) Any other factors specific to the electric generating unit that make application of a less stringent performance standard or longer compliance schedule more reasonable.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

To the maximum extent permissible, the cabinet may develop a method for electric generating units to implement the performance standards that gives the electric generating units flexibility to comply with the performance standards.

SECTION 7. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall not propose or submit to the United States Environmental Protection Agency any plan establishing performance standards for existing fossil fuel-fired electric generating units unless the plan is:

(a) Consistent with Sections 1 to 7 of this Act; and

(b) Prepared in consultation with the Kentucky Public Service Commission to:

1. Ensure that the plan minimizes the impacts on current and future industrial, commercial, and residential consumers; and

2. Does not threaten the affordability of Kentucky's rates or the reliability of electricity service.

(2) The cabinet shall promulgate administrative regulations for the establishment and implementation of any state plan to regulate emissions of carbon dioxide
emissions from existing fossil fuel-fired electric generating units under 42 U.S.C. sec. 7411(d).

(3) Any state plan established by the cabinet to regulate emissions of carbon dioxide pursuant to Sections 1 to 7 of this Act shall have no legal effect if:

(a) The United States Environmental Protection Agency:

1. Fails to issue federal rules or guidelines for reducing carbon dioxide emissions from existing fossil fuel-fired electric generating units under 42 U.S.C. sec. 7411(d); or

2. Withdraws its federal rules or guidelines for reducing carbon dioxide emissions from existing fossil fuel-fired electric generating units; or

(b) A court of competent jurisdiction invalidates the United States Environmental Protection Agency's federal rules or guidelines issued to regulate emissions of carbon dioxide from existing fossil fuel-fired electric generating units.
ENROLLED

H. B. 4346

(By Delegates R. Phillips, Caputo, Andes, Craig, Sumner, Pethtel, Marcum, Lynch, Tomblin, Eldridge and Barker)

[Passed March 8, 2014; in effect ninety days from passage,]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-5-20, relating to the development of a state plan to reduce carbon pollution and greenhouse gas production under section 111 of the Clean Air Act; establishing separate standards of performance for carbon dioxide emissions from existing coal-fired electric generating units; establishing separate standards of performance for natural gas-fired electric generating units; and factors and considerations to be reflected in the developed state plan.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §22-5-20, to read as follows:

ARTICLE 5. AIR POLLUTION CONTROL.

§22-5-20. Regulating carbon dioxide emissions from existing fossil fuel-fired electric generating units.

(a) The Department of Environmental Protection, in consultation with the Department of
Environmental Protection Advisory Council, shall establish separate standards of performance for carbon dioxide emissions from existing coal-fired electric generating units in accordance with subsection (b) and from existing natural gas-fired electric generating units in accordance with subsection (c). The standards of performance developed and proposed under any state plan to comply with Section 111 of the Clean Air Act should allow for greater flexibility and take into consideration the additional factors set forth in subsection (d) as a part of any state plan to achieve targeted reductions in greenhouse gas emissions which are equivalent or comparable to the goals and marks established by federal guidelines.

(b) Standards of performance for existing coal-fired electric generating units. -- Except as provided under subsection (d), the standard of performance established for existing coal-fired electric generating units under subsection (a) shall be based upon:

1. The best system of emission reduction which, taking into account the cost of achieving the reduction and any nonair quality health and environmental impact and energy requirements, has been adequately demonstrated for coal-fired electric generating units that are subject to the standard of performance;

2. Reductions in emissions of carbon dioxide that can reasonably be achieved through measures undertaken at each coal-fired electric generating unit; and

3. Efficiency and other measures that can be undertaken at each coal-fired electric generating unit to reduce carbon dioxide emissions from the unit without switching from coal to other fuels or limiting the economic utilization of the unit; and

4. Additional regulatory mechanisms that provide flexibility in complying with the
standards, including: (A) Emissions trading with credited reduction for any unit that was in
operation January 1, 2011, or thereafter, and fleet wide averaging; (B) other alternative
implementation measures that are determined to further the interests of West Virginia and its
citizens including state programs such as clean energy programs that mandate reduced energy
consumption resulting in avoided emissions, emission reductions, or a reduction in the state’s
carbon dioxide intensity whereby the state shall credit equally based on the output to the
generators located in the state that are subject to carbon dioxide performance standard rules
under Section 111(d) of the Clean Air Act.

(c) Standards of performance for existing natural gas-fired electric generating units. --
Except as provided in subsection (d), the standard of performance established for existing
gas-fired electric generating units under subsection (a) shall be based upon:

(1) The best system of emission reduction which, taking into account the cost of
achieving the reduction and any nonair quality health and environmental impact and energy
requirements, has been adequately demonstrated for natural gas-fired electric generating units
that are subject to the standard of performance;

(2) Reductions in emissions of carbon dioxide that can reasonably be achieved through
measures at each natural gas-fired electric generating unit; and

(3) Efficiency and other measures that can be undertaken at the unit to reduce carbon
dioxide emissions from the unit without switching from natural gas to other lower-carbon fuels
or limiting the economic utilization of the unit.

(d) Flexibility in establishing standards of performance. -- In developing a flexible state
plan to achieve targeted reductions in greenhouse gas emissions, the Department of Environmental Protection shall endeavor to establish an achievable standard of performance for any existing fossil fuel-fired electric generating unit, and examine whether less stringent performance standards or longer compliance schedules may be implemented or adopted for existing fossil fuel-fired electric generating units in comparison to the performance standards established for new, modified or reconstructed generating units, based on the following:

(1) Consumer impacts, including any disproportionate impacts of energy price increases on lower income populations;

(2) Nonair quality health and environmental impacts;

(3) Projected energy requirements;

(4) Market-based considerations in achieving performance standards;

(5) The costs of achieving emission reductions due to factors such as plant age, location or basic process design;

(6) Physical difficulties with or any apparent inability to feasibly implement certain emission reduction measures;

(7) The absolute cost of applying the performance standard to the unit;

(8) The expected remaining useful life of the unit;

(9) The impacts of closing the unit, including economic consequences such as expected job losses, if the unit is unable to comply with the performance standard;

(10) Impacts on the reliability of the system; and

(11) Any other factors specific to the unit that make application of a modified or less
stringent standard or a longer compliance schedule more reasonable.

(e) State plan requirement. -- The Department of Environmental Protection shall propose or submit to the U. S. Environmental Protection Agency a state plan which includes achievable performance standards for existing sources, and a combination of additional measures designed to meet the U. S. Environmental Protection Agency’s guidelines, consistent with the considerations, goals and parameters set forth in this section.
AN ACT concerning safety.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Environmental Protection Act is amended by changing Section 42 and by adding Section 52.5 as follows:

(415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

Sec. 42. Civil penalties.

(a) Except as provided in this Section, any person that violates any provision of this Act or any regulation adopted by the Board, or any permit or term or condition thereof, or that violates any order of the Board pursuant to this Act, shall be liable for a civil penalty of not to exceed $50,000 for the violation and an additional civil penalty of not to exceed $10,000 for each day during which the violation continues; such penalties may, upon order of the Board or a court of competent jurisdiction, be made payable to the Environmental Protection Trust Fund, to be used in accordance with the provisions of the Environmental Protection Trust Fund Act.

(b) Notwithstanding the provisions of subsection (a) of this Section:

(1) Any person that violates Section 12(f) of this Act or any NPDES permit or term or condition thereof, or any filing requirement, regulation or order relating to the
thereof, or any fee or filing requirement, or any duty to allow or carry out inspection, entry or monitoring activities, or any regulation or order relating to the CAAPP shall be liable for a civil penalty not to exceed $10,000 per day of violation.

(6) Any owner or operator of a community water system that violates subsection (b) of Section 18.1 or subsection (a) of Section 25d-3 of this Act shall, for each day of violation, be liable for a civil penalty not to exceed $5 for each of the premises connected to the affected community water system.

(7) Any person who violates Section 52.5 of this Act shall be liable for a civil penalty of up to $1,000 for the first violation of that Section and a civil penalty of up to $2,500 for a second or subsequent violation of that Section.

(b.5) In lieu of the penalties set forth in subsections (a) and (b) of this Section, any person who fails to file, in a timely manner, toxic chemical release forms with the Agency pursuant to Section 25b-2 of this Act shall be liable for a civil penalty of $100 per day for each day the forms are late, not to exceed a maximum total penalty of $6,000. This daily penalty shall begin accruing on the thirty-first day after the date that the person receives the warning notice issued by the Agency pursuant to Section 25b-6 of this Act; and the penalty shall be paid to the Agency. The daily accrual of penalties
Sec. 52.5. Microbead-free waters.

(a) As used in this Section:

"Over the counter drug" means a drug that is a personal care product that contains a label that identifies the product as a drug as required by 21 CFR 201.66. An "over the counter drug" label includes:

(1) A drug facts panel; or

(2) A statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation.

"Personal care product" means any article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and any article intended for use as a component of any such article. "Personal care product" does not include any prescription drugs.

"Plastic" means a synthetic material made from linking monomers through a chemical reaction to create an organic polymer chain that can be molded or extruded at high heat into various solid forms retaining their defined shapes during life cycle and after disposal.
"Synthetic plastic microbead" means any intentionally added non-biodegradable solid plastic particle measured less than 5 millimeters in size and is used to exfoliate or cleanse in a rinse-off product.

(b) The General Assembly hereby finds that microbeads, a synthetic alternative ingredient to such natural materials as ground almonds, oatmeal, and pumice, found in over 100 personal care products, including facial cleansers, shampoos, and toothpastes, pose a serious threat to the State's environment. Microbeads have been documented to collect harmful pollutants already present in the environment and harm fish and other aquatic organisms that form the base of the aquatic food chain. Recently, microbeads have been recorded in Illinois water bodies, and in particular, the waters of Lake Michigan.

Although synthetic plastic microbeads are a safe and effective mild abrasive ingredient effectively used for gently removing dead skin, there are recent concerns about the potential environmental impact of these materials. More research is needed on any adverse consequences, but a number of cosmetic manufacturers have already begun a voluntary process for identifying alternatives that allay those concerns. Those alternatives will be carefully evaluated to assure safety and implemented in a timely manner.

Without significant and costly improvements to the majority of the State's sewage treatment facilities, microbeads contained in products will continue to pollute
Illinois' waters and hinder the recent substantial economic investments in redeveloping Illinois waterfronts and the ongoing efforts to restore the State's lakes and rivers and recreational and commercial fisheries.

(c) Effective December 31, 2017, no person shall manufacture for sale a personal care product, except for an over the counter drug, that contains synthetic plastic microbeads as defined in this Section.

(d) Effective December 31, 2018, no person shall accept for sale a personal care product, except for an over the counter drug, that contains synthetic plastic microbeads as defined in this Section.

(e) Effective December 31, 2018, no person shall manufacture for sale an over the counter drug that contains synthetic plastic microbeads as defined in this Section.

(f) Effective December 31, 2019, no person shall accept for sale an over the counter drug that contains synthetic plastic microbeads as defined in this Section.
An Act

ENROLLED SENATE
BILL NO. 1187           By: Standridge, Fields and
                             Sparks of the Senate
                             and
                             Martin (Scott) of the House
                             
An Act relating to environment and natural resources; requiring the Department of Environmental Quality to receive, review, and evaluate certain permit applications for water reuse projects; requiring the Department to issue permits; requiring the Department to approve certain discharges into sensitive public and private water supplies; specifying review procedures and timelines; providing for codification; and declaring an emergency.

SUBJECT: Water reuse projects

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

SECTION 1. NEW LAW      A new section of law to be codified in the Oklahoma Statutes as Section 2-2-105 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The Department of Environmental Quality shall receive, review, and evaluate permit applications for discharges to water bodies for water reuse projects. The Department shall approve such applications as comply with the applicable rules of the Environmental Quality Board for discharges to the waters of the State.
B. 1. Subject to subsection A of this section, the Department shall issue permits for point-source discharges into sensitive public and private water supplies, as defined by the rules of the Oklahoma Water Resources Board, where such discharges do not contain concentrations of pollutants greater than the existing concentrations of such pollutants in the receiving water body. The issuance of such permit by the Department shall not be considered a violation of the anti-degradation provisions of the State’s water quality standards.

2. Upon initial receipt of an application for a discharge permit that is for the purpose of developing and implementing a water reuse project, the Department shall acknowledge to the applicant in writing or by electronic mail the date that the Department received the application, thus initiating the period for administrative review of the application. The Department shall review the application in accordance with timelines for administrative and technical review adopted by the Environmental Quality Board.

3. Applications for point-source discharges into water bodies designated by the Oklahoma Water Resources Board as Sensitive Public or Private Water Supplies shall be considered Tier III permit applications under the Uniform Environmental Permitting Act.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this Act shall take effect and be in full force from and after its passage and approval.
Passed the Senate the 21st day of May, 2014.

Presiding Officer of the Senate

Passed the House of Representatives the 21st day of May, 2014.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this ________________
day of ________________, 20_____, at _____ o'clock _____ M.

By: ______________________________

Approved by the Governor of the State of Oklahoma this ______
day of ________________, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this ______
day of ________________, 20 ______, at _____ o'clock _____ M.

By: ______________________________
HOUSE BILL 14-1222


CONCERNING MODIFICATION OF THE TERMS UNDER WHICH A COUNTY MAY ISSUE TAX-EXEMPT PRIVATE ACTIVITY BONDS ON BEHALF OF AN ELIGIBLE APPLICANT FOR THE PURPOSE OF FINANCING A GEOTHERMAL ENERGY PROJECT ON THE APPLICANT'S PROPERTY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 30-20-1203, amend (1) and (2) (c) as follows:

30-20-1203. Eligible clean energy project financing - county approval - private activity bond financing. (1) An eligible applicant may apply to the board of the county or city and county in which it proposes to construct, expand, or upgrade an eligible clean energy project for assistance in the financing of the project. Subject to the requirements and limitations specified in federal law, the "Colorado Private Activity Bond Ceiling

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.
Allocation Act", part 17 of article 32 of title 24, C.R.S., and subsection (2) of this section, if the board approves the application, it may provide financing assistance by issuing tax-exempt private activity bonds in a minimum amount of FIVE HUNDRED THOUSAND DOLLARS FOR A GEOTHERMAL ENERGY PROJECT AND one million dollars FOR ANY OTHER TYPE OF ELIGIBLE CLEAN ENERGY PROJECT on behalf of the eligible applicant.

(2) A board shall issue tax-exempt private activity bonds on behalf of an eligible applicant to finance an eligible clean energy project subject to the following requirements and limitations:

(c) The repayment term for the bonds issued shall not exceed FIFTEEN YEARS FOR A GEOTHERMAL ENERGY PROJECT AND ten years FOR ANY OTHER TYPE OF ELIGIBLE CLEAN ENERGY PROJECT AND MAY, FOR A GEOTHERMAL ENERGY PROJECT ONLY, BE CORRELATED TO THE REVENUE STREAM OF THE ELIGIBLE CLEAN ENERGY PROJECT BEING FINANCED BY THE BONDS SO LONG AS THE AMOUNT OF SCHEDULED BOND PAYMENTS FOR ANY FISCAL YEAR DOES NOT EXCEED SEVENTY-FIVE PERCENT OF THE ESTIMATED AMOUNT OF PROJECT REVENUES FOR THE FISCAL YEAR.

SECTION 2. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Morgan Carroll
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2803

(By Delegates Manchin, M. Poling, Iaquinta, Guthrie and Manypenny)

[Passed March 7, 2014; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-19, relating to requiring electric utilities to develop integrated resource plans; requiring the Public Service Commission to order development of integrated resource plans; specifying certain deadlines for the plans; requiring commission review; authorizing commission to request additional information from the utilities; and providing considerations for commission when developing requirements for integrated resource plans.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §24-2-19, to read as follows:


(a) Not later than March 31, 2015, the Public Service Commission shall issue an order directing any electric utility that does not have an existing requirement approved by the Public Service Commission that provides for the future review of both supply side and demand side resources to develop an initial integrated resource plan to be filed not later than January 1, 2016,
in conjunction with other similar deadlines required by other states or entities of the electric utilities. This order may include guidelines for developing an integrated resource plan.

(b)(1) Any electric utility that has an existing requirement approved by the Public Service Commission that provides for the future review of both supply side and demand side resources is exempt from this initial integrated resource plan filing until such time as that existing requirement has been satisfied. Thereafter, such electric utility is required to file an integrated resource plan pursuant to subsection (a) of this section.

(2) Each electric utility that has filed the initial integrated resource plan shall file an updated plan at least every five years after the initial integrated resource plan has been filed. Any electric utility that was exempt from filing an initial integrated resource plan shall file an integrated resource plan within five years of satisfying any existing requirement and at least every five years thereafter. All integrated resource plans shall comply with the provisions of any relevant order of the Public Service Commission establishing guidelines for the format and contents of updated and revised integrated resource plans.

(c) The Public Service Commission shall analyze and review an integrated resource plan. The Public Service Commission may request further information from the utility, as necessary. Nothing in this section affects the obligations of utilities to obtain otherwise applicable commission approvals.

(d) The Commission may consider both supply-side and demand-side resources when developing the requirements for the integrated resource plans. The plan shall compare projected peak demands with current and planned capacity resources in order to develop a portfolio of resources that represents a reasonable balance of cost and risk for the utility and its customers in
meeting future demand for the provision of adequate and reliable service to its electric customers as specified by the Public Service Commission.
2014 -- H 7727 SUBSTITUTE A AS AMENDED

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

AN ACT
RELATING TO PUBLIC UTILITIES AND CARRIERS - THE DISTRIBUTED GENERATION GROWTH PROGRAM

Introduced By: Representatives Ruggiero, Handy, Marshall, and Finn

Date Introduced: February 27, 2014

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND CARRIERS" is hereby amended by adding thereto the following chapter:

CHAPTER 26.6
THE RENEWABLE ENERGY GROWTH PROGRAM

39-26.6-1. Purpose. -- The purpose of this chapter is to facilitate and promote installation of grid-connected generation of renewable energy; support and encourage development of distributed renewable energy generation systems; reduce environmental impacts; reduce carbon emissions that contribute to climate change by encouraging the siting of renewable energy projects in the load zone of the electric distribution company; diversify the energy generation sources within the load zone of the electric distribution company; stimulate economic development; improve distribution system resilience and reliability within the load zone of the electric distribution company; and reduce distribution system costs.

39-26.6-2. Renewable energy growth program established. -- To carry out these purposes, a tariff-based renewable energy distributed generation financing program, hereinafter referred to as the renewable energy growth program, is hereby established with the intention of continuing the development of renewable energy distributed generation in the load zone of the electric distribution company at reasonable cost. The program shall be designed to finance the development, construction, and operation of renewable energy distributed generation projects...
over five (5) years through a performance based incentive system that is designed to achieve specified megawatt targets at reasonable cost through competitive processes. The renewable energy growth program shall be implemented by the electric distribution company, and guided by the distributed generation board, in consultation with the office of energy resources, subject to the review and supervision of the commission.

39-26.6-3. Definitions. -- When used in this chapter, the following terms shall have the following meanings:

(1) "Commission" means the Rhode Island public utilities commission.

(2) "Board" shall mean the distributed generation board as established pursuant to the provisions of § 39-26.2-10 under the title distributed generation standard contract board, but shall also fulfill the responsibilities set forth in this chapter.

(3) "Commercial scale solar project" means a solar distributed generation project with the nameplate capacity specified in § 39-26.6-7.

(4) "Distributed generation facility" means an electrical generation facility located in the electric distribution company's load zone with a nameplate capacity no greater than five megawatts (5 MW), using eligible renewable energy resources as defined by § 39-26-5, including biogas created as a result of anaerobic digestion, but, specifically excluding all other listed eligible biomass fuels, and connected to an electrical power system owned, controlled, or operated by the electric distribution company. For purposes of this chapter, a distributed generation facility must be a new resource that:

(i) Has not begun operation;

(ii) Is not under construction, but excluding preparatory site work that is less than twenty-five percent (25%) of the estimated total project cost; and

(iii) Except for small scale solar projects, does not have in place investment or lending agreements necessary to finance the construction of the facility prior to the submittal of an application or bid for which the payment of performance based incentives are sought under this chapter except to the extent that such financing agreements are conditioned upon the project owner being awarded performance based incentives under the provisions of this chapter. For purposes of this definition, pre-existing hydro generation shall be exempt from the provisions of subsection (i) of this section, regarding operation, if the hydro generation facility will need a material investment to restore or maintain reliable and efficient operation and meet all regulatory, environmental or operational requirements. For purposes of this provision, "material investment" shall mean investment necessary to allow the project to qualify as a new renewable energy resource under § 39-26-2(2). To be eligible for this exemption, the hydro project developer at the
time of submitting a bid in the applicable procurement must provide reasonable evidence with its
bid application showing the level of investment needed along with any other facts that support a
finding that the investment is material, the determination of which shall be a part of the bid
review process set forth in § 39-26.6-16 for the award of bids.

(5) "Distributed generation project" means a distinct installation of a distributed
generation facility. An installation will be considered distinct if it does not violate the

(6) "Electric distribution company" means a company defined in § 39-1-2(12), supplying
standard offer service, last resort service, or any successor service to end-use customers, but not
including the Block Island Power Company or the Pascoag Utility District.

(7) "ISO-NE" means Independent System Operator-New England, the Regional
Transmission Organization for New England designated by the Federal Energy Regulatory
Commission.

(8) "Large distributed generation project" means a distributed generation project that has
a nameplate capacity that exceeds the size of a small distributed generation project in a given
year, but is no greater than five megawatts (5 MW) nameplate capacity.

(9) "Large scale solar project" means a solar distributed generation project with the
nameplate capacity specified in § 39-26.6-7.

(10) "Medium scale solar project" means a solar distributed generation project with the
nameplate capacity specified in § 39-26.6-7.

(11) "Office" means the Rhode Island office of energy resources.

(12) "Program year" means a year beginning April 1 and ending March 31 except for the
first program year, which may commence after April 1, 2015, subject to commission approval.

(13) "Renewable energy classes" means categories for different renewable energy
technologies using eligible renewable energy resources as defined by § 39-26-5, including biogas
created as a result of anaerobic digestion, but, specifically excluding all other listed eligible
biomass fuels specified in § 39-26-2(6). For each program year, in addition to the classes of solar
distributed generation specified in § 39-26.6-7, the board shall determine the renewable energy
classes as are reasonably feasible for use in meeting distributed generation objectives from
renewable energy resources and are consistent with the goal of meeting the annual target for the
program year. The board may make recommendations to the commission to add, eliminate, or
adjust renewable energy classes for each program year, provided that the solar classifications set
forth in § 39-26.6-7 shall remain in effect for at least the first two (2) program years and no
distributed generation project may exceed five megawatts (5MW) of nameplate capacity.
(14) "Renewable energy certificate" means a New England Generation Information System renewable energy certificate as defined in § 39-26-2(13).

(15) "Small scale solar project" means a solar distributed generation project with the nameplate capacity specified in § 39-26-6.7.

(16) "Small distributed generation project" means a distributed generation renewable energy project that has a nameplate capacity within the following: Wind: fifty kilowatts (50 KW) to one and one-half megawatts (1.5 MW); small scale solar projects and medium scale solar projects with the capacity limits as specified in § 39-26-6.7. For technologies other than solar and wind, the board shall set the nameplate capacity size limits, but such limits may not exceed one (1MW) megawatt.

(17) "Ceiling price" means the bidding price cap applicable to an enrollment for a given distributed generation class, which shall be approved annually for each renewable energy class pursuant to the procedure established in this chapter. The ceiling price for each technology should be a price that would allow a private owner to invest in a given project at a reasonable rate of return, based on recently reported and forecast information on the cost of capital, and the cost of generation equipment. The calculation of the reasonable rate of return for a project shall include, where applicable, any state or federal incentives including, but not limited to, tax incentives.

39-26-6.4. Continuation of Board. -- (a) The distributed generation standard contract board shall remain fully constituted and authorized as provided in chapter 26.2 of title 39 provided, however, that the name shall be changed to the "distributed generation board."

Additional purposes of the board shall be to:

(1) Evaluate and make recommendations to the commission regarding ceiling prices and annual targets, the make-up of renewable energy classifications eligible under the distributed generation growth program, the terms of the tariffs, and other duties as set forth in this chapter;

(2) Provide consistent, comprehensive, informed and publicly accountable involvement by representatives of all interested stakeholders affected by, involved with, or knowledgeable about the development of distributed generation projects that are eligible for performance-based incentives under the distributed generation growth program; and

(3) Monitor and evaluate the effectiveness of the distributed generation growth program.

(b) The office, in consultation with the board, shall be authorized to hire or to request the electric distribution company to hire the services of qualified consultants to perform ceiling price studies subject to commission approval which shall be granted or denied within sixty (60) days of receipt of such request from the office. The cost of such studies shall be recoverable through the rate reconciliation provisions of the electric distribution company set forth in § 39-26.6-25.
subject to commission approval. In addition, the office, in consultation with the board, may request the commission to approve other costs incurred by the board or the electric distribution company to perform any other studies and reports, subject to the review and approval of the commission, which shall be granted or denied within one hundred twenty (120) days of receipt of such request from the office, and which shall be recoverable through the same reconciliation provisions.

39-26.6-5. Tariffs Proposed and Approved. -- (a) Each year for a period of at least five (5) program years, the electric distribution company shall file tariffs with the commission that are designed to provide a multi-year stream of performance-based incentives to eligible renewable distributed generation projects for a term of years, under terms and conditions set forth in the tariffs and approved by the commission. The tariffs shall set forth the rights and obligations of the owner of the distributed generation project and the conditions upon which payment of performance-based incentives by the electric distribution company will be paid. The tariffs shall include the non-price conditions set forth in §§ 39-26.2-7(2)(i) – (vii) for small distributed generation projects (other than small and medium scale solar), and large distributed generation projects; provided, however, that the time periods for such projects to reach ninety percent (90%) of output shall be extended to twenty-four (24) months (other than eligible anaerobic digestion projects which shall be thirty-six (36) months and eligible small-scale hydro which shall be forty-eight (48) months). The non-price conditions in the tariffs for small and medium scale solar shall take into account the different circumstances for distributed generation projects of the smaller sizes.

(b) In addition to the tariff(s) the filing shall include the rules governing the solicitation and enrollment process. The solicitation rules will be designed to ensure the orderly functioning of the distributed generation growth program and shall be consistent with the legislative purposes of this chapter.

(c) In proposing the tariff(s) and solicitation rules applicable to each year, the tariff(s) and rules shall be developed by the electric distribution company and will be reviewed by the office and the board before being sent to the commission for its approval. The proposed tariffs shall include the ceiling prices and term lengths for each tariff that are recommended by the board. The term lengths shall be from fifteen (15) to twenty (20) years, provided, however, that the board may recommend shorter terms for small scale solar projects. Whatever term lengths between fifteen (15) and twenty (20) years are chosen for any given tariff, the evaluation of the bids for that tariff shall be done on a consistent basis such that the same term lengths for competing bids are used to determine the winning bids.
(d) The board shall use the same standards for setting ceiling prices as set forth in § 39-26.2-5. In setting the ceiling prices, the board may specifically consider:

1. Transactions for newly developed renewable energy resources, by technology and size, in the ISO-NE control area and the northeast corridor;
2. Pricing from bids received during the previous program year;
3. Environmental benefits, including, but not limited to, reducing carbon emissions;
4. System benefits; and
5. Cost effectiveness.

(e) At least forty-five (45) days before filing the tariff(s) and solicitation rules, the electric distribution company shall provide the tariff(s) and rules in draft form to the board for review. The commission shall have the authority to determine the final terms and conditions in the tariff and rules. Once approved, the commission shall retain exclusive jurisdiction over the performance based incentive payments, terms, conditions, rights, enforcement, and implementation of the tariffs and rules, subject to appeals pursuant to chapter 5 of title 39.

39-26.6-6. Permanence of Tariff Terms Once Set. -- It is the intention of the general assembly in enacting this chapter that the developers, owners, investors, customers, and lenders of the distributed generation projects receiving performance based incentives under the tariffs be able to rely on the tariffs for the entire term of the applicable tariff for purposes of obtaining financing. Consistent with that intention and expectation, the terms under the tariffs for a given program year, once approved by the commission, shall not be altered in any way that would undermine such reliance on those tariffs during the applicable terms of the tariffs; and in no circumstance will the performance-based incentive rate paid to a renewable energy project developer or owner be reduced during the term of the tariff once a renewable energy project has qualified to receive a tariff under the terms of this chapter.

39-26.6-7. Solar Project Size Categories. -- (a) Tariff(s) shall be proposed for each of the following solar distributed generation classes:

1. Small scale solar projects;
2. Medium scale solar projects;
3. Commercial scale solar projects; and
4. Large scale solar projects.

(b) Such classes of solar distributed generation projects shall be established based on nameplate megawatt size as follows:

1. Large scale: solar projects from one megawatt (1 MW) up to and including five megawatts (5MW) nameplate capacity;
(2) Commercial scale: solar projects greater than two hundred fifty kilowatts (250 kW), but less than one megawatt (1 MW) nameplate capacity;

(3) Medium scale: solar projects greater than twenty-five kilowatts (25 kW) up to and including two hundred fifty kilowatts (250 kW) nameplate capacity; and

(4) Small scale: solar projects up to and including twenty-five kilowatts (25 kW) nameplate capacity.

(c) Other classifications of solar projects may also be proposed by the board, subject to the approval of the commission. After the second program year, the board may make recommendations to the commission to adjust the size categories of the solar classes, provided that the medium scale solar projects may not exceed two hundred fifty kilowatts (250 kW).

39-26.6-8. Renewable Technologies Other Than Solar. -- Tariffs also shall be proposed for on-shore wind and any other distributed generation technologies permissible under this chapter that the board, in its discretion, recommends; provided, however, that no project shall exceed five megawatts (5 MW) nameplate capacity. The electric distribution company shall file tariffs for each technology and size categories recommended by the board pursuant to the procedures set forth in this chapter.

39-26.6-9. Project Segmentation Prohibition. -- In no case may a project developer be allowed to segment a distributed generation project on the same parcel or contiguous parcels into smaller sized projects in order to fall under a smaller size project classification. Notwithstanding this prohibition, a project developer may designate a generation unit on the same parcel or contiguous parcel for net metering or other means of participating in electricity markets, provided that such unit or portion of such unit designated for net metering or other market participation is not receiving performance-based incentives under this chapter, is capable of being segregated electrically, is configured with such electrical segregation, and is separately metered. Further, a project shall not be considered to have been segmented if:

(1) There is a lapse of at least twenty-four (24) months between: (i) The commencement of construction of new distributed generation units on a parcel that is the same as or is contiguous with a parcel upon which a distributed generation project has already been constructed; and (ii) The operation date of the pre-existing project; or

(2) The new project is a different renewable technology.

39-26.6-10. Timing and Schedule of Tariff Filings. -- (a) The electric distribution company shall file with the commission the first set of tariffs and solicitation rules pursuant to this chapter no later than November 15, 2014. Thereafter, the electric distribution company shall make annual tariff and solicitation rules filings with the commission no later than November 15
prior to the beginning of the applicable program year, which tariffs and rules shall be applicable
for the next program year.

(b) Upon receiving the filing from the electric distribution company, the commission
shall open a docket to consider the filing. The commission shall issue an order approving the
proposed tariffs and solicitation rules; provided, however, that the commission may make any
modifications that it deems appropriate consistent with the legislative purposes of this chapter as
set forth herein.

(c) For the first program year, the commission shall issue its order approving tariff(s) and
solicitation rules by no later than March 31, 2015. Thereafter, the commission shall approve them
by February 15 of each succeeding year.

(d) During the course of any program year, the electric distribution company may, at any
time, in consultation with the office and the board, propose tariff or solicitation rules
modifications. The commission shall consider such proposed modifications through an already
open or new docket, and shall issue its order within one hundred five (105) days of the filing of
the proposed modification. If approved, the proposed modification shall take effect for the next
enrollment event following the issuance of the commission’s order.

39-26.6-11. Power Purchase Agreements Not Required. -- The distributed generation
growth program shall be implemented and administered exclusively through the tariff structure
and procedures set forth in this chapter, and the electric distribution company shall not be
required to execute power purchase agreements for the procurement of the renewable energy
distributed generation capacity requirements set forth in this chapter.

39-26.6-12. Annual Bidding and Enrollments. -- (a) With the exception of the first
program year (2015), the electric distribution company, in consultation with the board and office,
shall conduct at least three (3) tariff enrollments for each distributed generation class each
program year. For the first program year, the board may recommend that either two (2) or three
(3) enrollments be conducted.

(b) During each program year the tariff enrollments shall have both an annual targeted
amount of nameplate megawatts ("annual MW target") and a nameplate megawatt target for each
separate enrollment event ("enrollment MW target"). The enrollment MW target shall comprise
the specific portion of the annual MW target sought to be obtained in that enrollment. The
enrollment MW targets shall be recommended by the board each year, subject to commission
approval. The board shall also recommend a megawatt target for each class ("class MW target")
that comprises a specified portion of the enrollment MW target, subject to commission approval.
If the electric distribution company, the office, and the board mutually agree, they may reallocate
megawatts during an enrollment from one class to another without commission approval if there
is an over-subscription in one class and an under-subscription in another, provided that the annual
MW Target is not being exceeded, except as provided in § 39-26.6-7.

c) The annual MW targets shall be established as follows; provided, however that at
least three megawatts (3 MW) of nameplate capacity shall be carved out exclusively for small
scale solar projects in each of the first four (4) program years:

(1) For the first program year (2015), the annual MW target shall be twenty-five (25)
nameplate megawatts;

(2) For the second program year, the annual targets shall be forty (40) nameplate
megawatts;

(3) For the third and fourth program years, the annual target shall be forty (40) nameplate
megawatts, subject to the conditions set forth in § 39-26.6-12(f) having been met for the
applicable prior program year as determined in the manner specified in § 39-26.6-12(g); and

(4) For the fifth program year, the annual target shall be set to obtain the balance of
capacity needed to achieve one hundred sixty (160) nameplate megawatts within the five (5) year
distributed generation growth program, subject to § 39-26.6-12(e) and the conditions set forth in §
39-26.6-12(f) having been met for the fourth program year as determined in the manner specified
in § 39-26.6-12(g).

d) During the fifth year of the distributed generation growth program, the board may
recommend to the commission an extension of time in the event that additional time is required to
achieve the full one hundred sixty (160) nameplate megawatt target of the program. The
commission shall approve the recommendation of the board; provided, however, that the
commission may make any modifications to the board's recommendation that the commission
deems appropriate, consistent with the legislative purposes of this chapter as set forth herein.

e) To the extent there was a shortfall of capacity procured under chapter 26.2 of title 39
from distributed generation procurements in 2014, such shortfall amount may be added to the one
hundred sixty megawatt (160MW) target for acquisition in the fifth program year under this
chapter. In no event shall the electric distribution company be required to exceed the aggregate
amount of one hundred sixty (160) nameplate capacity plus any such shortfall amount over the
five (5) years, but may do so voluntarily, in consultation with the board and subject to
commission approval.

f) The conditions specified in subsections (c)(3) and (c)(4) of this section are as follows:

(1) That it is reasonable to conclude that the bid prices submitted in the procurements for the
large scale solar and commercial scale solar classes were reasonably competitive in the
immediately preceding program year; (2) That it is reasonable to conclude that the annual MW
target specified for the next program year is reasonably achievable; and (3) That the electric
distribution company was able to, or with reasonably prudent efforts should have been able to,
perform the studies and system upgrades on a timely basis necessary to accommodate the number
of applications associated with the targets without materially adversely affecting other electric
distribution construction projects needed to provide reliable and safe electric distribution service.
To the extent the board or the commission concludes that any of these conditions have not been
met for the applicable program year, the board may recommend and/or the commission may
adopt a new annual MW target, based on the factors set forth in § 39-26.6-12(h).

(g) Before the third, fourth, and fifth program years, each year the board shall review the
conditions specified in § 39-26.6-12(f) and make a recommendation to the commission for
findings as to whether they have been met for the applicable year. The recommendation shall be
filed with the commission, with copies to the office and the electric distribution company, and
any person who has made a written request to the commission to be included in such notification,
such list which may be obtained from the commission clerk, and a notice of such filing shall be
posted by the commission on its website. If no party files an objection to the recommended
findings within ten (10) business days of the posting, the commission may accept them without
hearings. If an objection is filed with a reasonable explanation for its basis, the commission shall
hold hearings and make the factual determination of whether the conditions have been met.

(h) In the event that the conditions in § 39-26.6-12(f) have not been met for any program
year, then the board and the commission shall take into account the factors set forth below in
setting the annual MW target for the following year. In addition, for every program year the board
and the commission shall take into account these factors in setting the class MW targets, and the
enrollment MW targets for the following year: (1) That the new annual, class, and enrollment
levels reasonably assure that competition among projects for the applicable bidding
classifications remains robust and likely to yield reasonable and competitive program costs; (2)
That, assuming prudent management of the program, the electric distribution company should be
able to perform the studies and system upgrades on a timely basis necessary to accommodate the
number of applications associated with the targets without materially adversely affecting other
electric distribution construction projects needed to provide reliable and safe electric distribution
service; and (3) Any other reasonable factors that are consistent with the legislative purpose of
this chapter as set forth herein, including the program purpose to facilitate the development of
renewable distributed generation in the load zone of the electric distribution company at
reasonable cost.
(i) The renewable energy growth program is intended to achieve at least an aggregate amount of one hundred sixty (160) nameplate megawatts over five (5) years, plus any shortfall amount added in pursuant to § 39-26.6-12(e). However, after the second program year the board may, based on market data and other information available to it, including pricing received during previous program years, recommend changes to the annual target for any program year above or below the specified targets in § 39-26.6-12(c) if the board concludes that market conditions are likely to produce favorably low or unfavorably high target pricing during the upcoming program year, provided that the recommendation may not result in the five (5)-year one hundred sixty megawatt (160MW) nameplate target, plus any shortfall added pursuant to § 39-26.6-12(e), being exceeded. Any megawatt reduction in an annual target shall be added to the target in the fifth year of the program (and any subsequent years if necessary) such that the overall program target of one hundred sixty megawatt (160MW) nameplate capacity, plus any shortfall added pursuant to § 39-26.6-12(e), is achieved. In considering such issues, the board and the commission may take into account the reasonableness of current pricing and its impact on all electric distribution customers and the legislative purpose of this chapter as set forth herein, including the program purpose to facilitate the development of renewable distributed generation in the load zone of the electric distribution company at reasonable cost.

(j) The provisions of § 39-26.1-4 shall apply to the annual value of performance based incentives (actual payments plus the value of net metering credits, as applicable) provided by the electric distribution company to all the distributed generation projects under this chapter, subject to the following conditions:

(1) The targets set for the applicable program year for the applicable project classifications were met or, if not met, such failure was due to factors beyond the reasonable control of the electric distribution company;

(2) The electric distribution company has processed applications for service and completed interconnections in a timely and prudent manner for the projects under this chapter, taking into account factors within the electric distribution company's reasonable control. The commission is authorized to establish more specific performance standards to implement the provisions of this chapter; and

(3) The incentive shall be one and three-quarters percent (1.75%) of the annual value of performance-based incentives. The commission is authorized to establish more specific performance standards to implement the provisions of this paragraph.

39-26.6-13. Cost reconciliation.-- To the extent the electric distribution company incurs incremental costs to meet the program objectives or make billing system improvements that are
required to facilitate payments of performance-based incentives and administering net metering.

the electric distribution company may elect to recover those incremental costs through the annual
charge set forth in § 39-26.6-25, subject to commission review and approval that assures such
costs were properly and prudently incurred.

39-26.6-14. Existing powers of agencies and advocacy rights of parties unchanged. --

Nothing in this chapter shall be construed to derogate from the statutory authority of the
commission or the division of public utilities and carriers, including, but not limited to, the
authority to protect ratepayers from unreasonable rates. Nothing in this chapter shall be construed
to preclude any party from advocating a position in commission proceedings that differs from the
recommendations made by the board to the commission or in any filing with the commission
relating to this chapter, including without limitation (1) Individual or organizational members of
the board; (2) Participants in board deliberations; (3) The office; and (4) The electric distribution
company, unless such party has consented by vote to the execution or executed a settlement
agreement agreeing to the terms, policy proposals, or any other matter proposed to the
commission.


(a) Large scale and commercial scale solar projects and distributed generation projects for other
eligible technologies shall bid a price per kilowatt-hour for the entire output of the facility (net of
any station service), which price shall not exceed the applicable ceiling price. Small-scale and
medium-scale solar projects will submit an enrollment application to receive a standard
performance-based incentive for the period of years in the applicable tariff, which shall be a price
per kilowatt-hour for the entire output of the facility. Except for megawatts that may be allocated
to the energy efficiency program pursuant to § 39-26.6-19, small and medium scale projects shall
be selected on a first come, first served basis, or by means of a commission-approved lottery
system, or such other method as may be recommended by the board and approved by the
commission.

(b) Except for the first program year, the board shall determine, subject to commission
approval, the standard performance based incentive for small and medium sized solar projects
from the average bid price from the last two (2) procurement enrollments conducted in the
commercial scale and/or large scale solar projects class. For the first program year, the board may
derive the standard performance incentive for small and medium sized solar projects from the
bidding data obtained from the distributed generation program in effect in 2014 under the
provisions of chapter 26.2 of title 39, until there is bidding data from the first procurement under
the new program which shall then be used to set a new standard performance incentive. The
standard performance incentive may be set at a higher rate than payments for commercial scale
and large scale solar projects in order to take into account the potentially higher per-unit cost of
smaller projects. The standard performance incentive also shall be adjusted upward or downward,
as needed, in order to take into account the term length over which the incentive shall be paid for
the small and medium scale solar projects if such terms are different than the terms applicable to
the classes from which the standard performance incentive was derived.

(c) For each program year, the board shall recommend to the commission a standard
performance incentive for each of the small scale and medium scale solar project classifications.
Upon receiving the recommendations from the board, the commission shall open a docket to
consider the recommendations or address the recommendations in its approval process for the
program year in a consolidated docket, as provided in § 39-26.6-10. The commission shall issue
its order approving the recommendations no later than concurrently with approval of the entire
program and tariffs applicable to the program year; provided, however, that the commission may
make modifications or changes to the board's recommendations consistent with the legislative
purposes of this chapter.

(d) If after the first program year the applications for the medium scale solar projects are
significantly over-subscribed, then the board and the electric distribution company, in
consultation with the office, may propose to the commission a bidding process for medium scale
projects or a subset of the medium scale projects under which project selections would be made
based on the lowest bids rather than first come first served or such other method previously
approved by the commission. The commission shall approve the proposal from the board and
electric company within ninety (90) days; provided, however, that the commission may make
changes to the proposal consistent with the legislative purposes of this chapter.

(e) The commission shall approve the bidding process for medium scale solar projects
recommended by the board only if the commission finds that such bidding process is in a
sufficiently simple form that is not administratively burdensome to bidders, and will not have the
effect of discouraging participation in the distributed generation growth program by developers of
medium scale solar projects who may be unrepresented by counsel.

39-26.6-16. Enrollment Program. -- (a) Each enrollment shall be open for a two (2)
week period during which the electric distribution company is required to receive standard short-
form applications. The standard short-form application shall require the applicant to provide the
following information: the project owner's identity; the location of the proposed project; the
nameplate capacity of the proposed project; and renewable energy class of the proposed project.
The standard short-form application shall allow project owners to provide additional information
relative to the permitting, financial feasibility, ability to build, and timing for deployment of the
proposed projects. The applicant must submit an affidavit with the standard short-form
application confirming that the project is not in violation of the rules that prohibit project
segmentation, as set forth in § 39-26.6-9.

(b) For large distributed generation projects only, the standard short-form application
shall also require the applicant to bid a bundled price that applies to the energy, renewable energy
certificates, and all other environmental attributes and market products that are available or may
become available from the distributed generation facility, on a per kilowatt-hour basis measured
from the output of the project. At the election of the electric distribution company, and subject to
the approval of the commission, the bid may be required to include the sale of capacity.

(c) For (i) Small distributed generation projects other than small scale and medium scale
solar projects; and (ii) Large distributed generation projects, the electric distribution company
shall select projects based on the lowest proposed prices received that do not exceed the ceiling
price from the distributed generation projects which meet the requirements of all applicable tariffs
and regulations, and meet the criteria of the renewable energy class in effect, until the class target
is met. Performance based incentives shall be awarded to the winning bidders based on their bids
submitted.

(d) For small scale and medium scale solar projects, awards shall be made in the manner

(e) If there are more projects bidding at the same price than the capacity that is specified
for a class target, the electric distribution company shall, in consultation with the board and the
office, select first those projects that appear to be the furthest along in development and that are
most likely to be deployed. Those projects that are likely to be deployed at the earliest time shall
be selected first. To the extent the electric distribution company is unable to make a clear
distinction on this basis, the electric distribution company shall report its findings to the board
and not award bids for those projects that are tied on pricing. In such case, the board may take
such action as it deems appropriate for the selection of projects, including seeking more
information from the projects.

(f) Should the electric distribution company determine that it has made sufficient awards
to achieve a program-year class target, it shall immediately report this fact to the board, the
office, and the commission, and may cease making awards for that renewable energy class for the
remainder of the program year. In any event, the electric distribution company may exceed the
renewable energy class target if the last award may cause the total purchased to exceed the target.

(g) The board, the office, and the electric distribution company shall enter into a
memorandum of understanding regarding the sharing of the information and data related to the renewable energy growth program, including, without limitation, information on bids received, details regarding project ownership, and pricing. At the request of the board, the office, or the electric distribution company, the commission shall have the authority to protect from public disclosure individual bid information for any projects that have not been awarded performance based incentives.

(h) The electric distribution company is authorized to award bids up to the applicable ceiling price. As long as the terms of the tariff are met and the pricing is no higher than the applicable ceiling price, such awards shall be deemed prudent and approved by the commission for purposes of recovering the costs in rates.

(i) With respect to any procurement that includes bids from pre-existing hydro-electric generation, the electric distribution company, in consultation with the office, shall have the authority to accept the applicant's representation that its investment is material, within the meaning of § 39-26.6-3(4). However, if the electric distribution company or the office questions whether the material investment standard has been met or the application is otherwise rejected, the application shall be submitted to the board for review and the board shall draw its own conclusion and make a recommendation to the commission at the time the commission is approving awards from the procurement to which the application pertains. The commission shall have the final authority to make the determination as to whether the material investment standard has been met. Nothing in this paragraph shall preclude a project developer from seeking a preliminary confirmation of eligibility for the material investment exemption from the electric distribution company, the office, and the board prior to the submittal of a bid. In such case, if there is any disagreement, the final determination shall be submitted to the commission.

39-26.6-17. Excess enrollment not required. -- The electric distribution company shall not be required to award bids in excess of the annual target for the applicable program year and shall not be required to procure projects in excess of any limit set by the board and approved by the commission for a given enrollment. However, the electric distribution company, in consultation with the board and the office, may voluntarily exceed an enrollment period limit as long as it does not exceed an annual target for the applicable program year. At its election, the electric distribution company may exceed an annual target for the applicable program year after review by the board and approval by the commission.

39-26.6-18. Utility Right to Separately Meter. -- Owners of medium scale, commercial scale, and large scale solar projects and other distributed generation technologies shall be required to provide at their cost a revenue quality meter to standards approved by the division of public
utilities and carriers and provide access to the information from the meter to the electric
distribution company to measure the output of the generation. The electric distribution company
shall have the discretion to install the second meter in a parallel configuration to the retail meter
or behind the meter, provided that a parallel installation shall have no effect on the right of the
customer to net meter using the net of the two meters. The electric distribution company also
shall have the right to install its own revenue quality meter for small scale solar projects if not
being supplied by the owner. The electric distribution company shall recover the installation and
capital cost of the separate meters it installs for small scale solar projects in the annual
reconciliation of solar costs under § 39-26.6-25.

39-26.6-19. Coordination with Energy Efficiency Programs. -- (a) In consultation with
the office, the electric distribution company may make a request to the commission that up to half
of the megawatts for the small and medium scale solar project enrollments be allocated by the
commission for selection through a process coordinated with the energy efficiency program in
order that specified solar incentives may be tied with energy efficiency program incentives in
order to allow the electric distribution company to implement a coordinated energy efficiency and
solar program offering. In such case, the electric distribution company will propose criteria for
eligibility for performance based incentives for solar that requires certain energy efficiency
standards be met at the customer location in order to be eligible for performance based incentives
for a small scale and/or medium scale solar installation.

(b) The electric distribution company must also include program parameters that do not
disrupt competition among small-scale and/or medium-scale solar developers, including, without
limitation, safeguards against any one or subset of developers in this market being given
exclusive rights or other market advantages over competitors. In approving the proposal, the
commission must find that there is no such small and medium solar-market disruption.

(c) The commission shall approve the request of the distribution company within ninety
(90) days, making such modifications as it deems reasonable, provided such modifications are
consistent with the legislative purposes of this chapter and the state's energy efficiency goals.

(d) The allocation of megawatts is for implementation purposes only and shall not
authorize funds to be shifted from the distributed generation growth program to energy efficiency
programs, nor will implementation of the electric distribution company's request cause a
reduction of the annual or cumulative capacity goals established for the distributed generation
growth program. To the extent that the megawatts allocated to the energy efficiency program
pursuant to this section are not committed during a program year, such uncommitted megawatts
shall be allocated back to the distributed generation growth program in the following year or such
year the board recommends to the commission. Funding for the energy efficiency measures that are tied to the solar installations must be obtained separately from the energy efficiency program budget funded through applicable energy efficiency charges.

(c) Should the small-scale and medium-scale project classes in the renewable energy growth program be oversubscribed in two (2) consecutive enrollments and there are megawatts that have not been committed through the process coordinated with the energy efficiency program after the second enrollment, the board, after consultation with the office and the electric distribution company, shall have the authority to move all or a portion of the uncommitted megawatts out of the coordinated program back to the renewable energy growth program to meet the demand of the oversubscription, subject to commission approval. If, in such case, the board does not exercise the authority, any party may file a petition to the commission requesting action to be taken.

39-26.6-20. Issuance of certificates and right to incentive payments. -- (a) For small scale and medium scale solar projects, the electric distribution company shall provide certificates of eligibility to the selected projects without commission confirmation of approval ("distribution company awarded certificates"), subject to the review and consent of the office. The electric distribution company shall file with the commission a list of all such distribution company awarded certificates.

(b) For commercial-scale and large-scale solar and all other distributed generation projects, the electric distribution company shall file with the commission a list of the distributed generation projects selected together with the corresponding pricing information. Within sixty (60) days of receipt of the list, the commission shall issue an order awarding certificates of eligibility to the distributed generation projects ("PUC awarded certificates").

(c) Upon receipt of a PUC awarded certificate or a distribution company certificate, a distributed generation project shall be entitled to receive, and the electric distribution company shall pay and/or credit (as applicable), the performance-based incentives for the specified term and under the terms and conditions of the applicable tariff in the manner set forth below.

(d) The performance based incentive shall be the price per kilowatt-hour that was bid and awarded or established as a standard incentive, as applicable. The performance-based incentive shall be applied as a price per kilowatt-hour for all kilowatt-hours actually produced from the distributed generation (net of station service, if any) for the term of years specified in the applicable tariff, less the value of any kilowatt-hour charges that were offset by any net metering (if applicable) for the host customer associated with the distributed generation for the billing month; provided, however, if the value of kilowatt-hour charges that otherwise would be offset by
net metering in a given month exceeds the total value of the performance-based incentive for the
month, the customer shall not be subject to any additional charge nor receive any additional net
metering credit for the difference between the performance-based incentive value and net
metering value for the month.

(c) Except as provided herein for residential small-scale solar projects, in every case
where a distributed generation project can be configured for net metering, it shall be the election
of the owner of such generation to choose one of two (2) separate methods through which the
owner will be compensated for the performance based incentive:

1. The owner is compensated solely through direct payments under the performance-
based incentive provisions of this chapter for the life of the tariff term with no net metering
implemented; or

2. The owner is compensated through a combination of direct payments and the bill
credit value of net metering for the life of the term of the tariff under the provisions of this
chapter.

In the case of residential small-scale solar projects, only option (2) shall be available.

In either option, the total value of the performance incentive per kilowatt-hour is the
same. An owner shall have a one-time right to switch the compensation methods after the
generation commences operation, provided that at least sixty (60) days notice is given to the
electric distribution company. Thereafter, any further compensation method switches shall be at
the sole discretion of the electric distribution company if requested again by the owner.

(f) Every owner who elects the compensation method shall:

1. Receive compensation solely in the form of a check from the electric distribution
company or such other payment method that is mutually agreed between the electric distribution
company and the owner; and

2. Shall receive compensation in the form of offsets against its electricity bill from the
electric distribution company from net metering and the balance in the form of a check from the
electric distribution company or such other payment method that is mutually agreed upon
between the electric distribution company and the owner; provided, however, that no owner of a
distributed generation project may be compensated twice for the same kilowatt hour of electricity,
and that every self-generator shall receive the full pecuniary benefit of its election to participate
in the performance-based incentive program.

(g) Every owner of a distributed generation project that can be configured for net
metering that elects the first option for compensation under the provisions of § 39-26.6-20(e)
shall become eligible to net meter its output in conformity with the provisions of existing law
upon the completion of the full term of the applicable tariff. Nothing in this section shall preclude a customer from electing not to participate in the performance based program and electing simply to net meter under the provisions of existing law; provided, however, once an election is made to participate, the customer will remain subject to the performance based tariff conditions and may not terminate the arrangement without the consent of the electric distribution company.

(h) As provided in § 39-26.6-9, any project developer may designate a generation unit on the same parcel or contiguous parcel for net metering, provided that such unit or portion of such unit designated for net metering is not receiving performance-based incentives under this chapter, is capable of being segregated electrically, is configured with such electrical segregation, and is separately metered.

(i) All distributed generation projects accepting certificates shall be obligated to abide by all the terms and conditions of the approved applicable tariff.

39-26.6-21. Ownership of output, other attributes, and renewable energy certificates. -- (a) Except as provided herein for residential small-scale solar projects, distributed generation projects participating in the renewable energy growth program shall transfer to the electric distribution company the rights and title to:

1. Those renewable energy certificates generated by the project during the term of the applicable performance-based incentive tariff;

2. All energy produced by the generation that is not otherwise consumed on site under a net metering arrangement; and

3. Rights to any other environmental attributes or market products that are created or produced by the project; provided, however, that it shall be the election of the electric distribution company whether it chooses to acquire the capacity of the distributed generation projects under the tariffs set forth in this chapter and no ceiling prices recommended by the board and approved by the commission will be adjusted downward in light of the electric distribution company's election. The electric distribution company shall sell any products acquired and credit them to the reconciliation account specified in § 39-26.6-25. When a generator reverts to net metering after the end of the tariff term under the renewable energy growth program, the net metering generator shall retain title to the renewable energy certificates generated by the project. In the case of residential small-scale projects, title to all energy and capacity produced from the solar generation shall remain with the residential customer, shall not be transferred to the electric distribution company, and shall be deemed consumed by the residential customer on-site during the applicable distribution service billing period with no sale or purchase between the residential customer and the electric distribution company.
(b) For the accounting purposes of the electric distribution company in treating the performance-based incentives, the cost of the energy that is procured shall be the real time market price of energy and the balance of the performance-based incentive shall be attributable to the purchase of environmental and any other attributes acquired. This accounting shall have no effect on the total bundled performance-based incentive to which the distributed generation project is entitled under the provisions of this chapter.

39-26.6-22. Zonal and other incentive payments. -- In order to provide the electric distribution company with the flexibility to encourage distributed generation projects to be located in designated geographical areas within its load zone where there is an identifiable system benefit, reliability benefit, or cost savings to the distribution system in that geographical area, the electric distribution company, in consultation with board and office, may propose to include an incentive payment adder to the bid price of any winning bidder that proposes a distributed generation project in the desired geographical area. The electric distribution company also may propose other incentive payments to achieve other technical or public policy objectives that provide identifiable benefits to customers. Any incentive payment adders must be approved by the commission, and shall not be counted as part of the bid price when the bids are selected at an enrollment event.

39-26.6-23. Intersection of distributed generation and net metering. -- (a) Net metering credits for excess generation shall not be credited during the term of the tariff when the distributed generation project is receiving performance-based incentive payments under the tariff. After the end of the term of the performance-based incentive tariff applicable to a distributed generation project, net metering credits for excess generation in any given month shall be credited to the net metered account at the applicable rate allowed under the law.

(b) All distributed generation projects that had begun development prior to the date the commission approves the first set of ceiling price recommendations from the board and that are in operation by no later than July 1, 2016, shall be eligible to continue operation under the net metering rules that would have been applicable to that self-generation project absent the change in law set forth in this section, provided that such project does not otherwise participate in the performance based incentive program set forth in this chapter.

39-26.6-24. Rate design review by the commission. -- (a) On or after July 1, 2015, the commission shall open a docket to consider rate design and distribution cost allocation among rate classes in light of net metering and the changing distribution system that is expected to include more distributed energy resources, including, but not limited to, distributed generation. The commission will determine the appropriate cost responsibility and contributions to the
operation, maintenance, and investment in the distribution system that is relied upon by all
customers, including, without limitation, non-net metered and net metered customers. In that
docket, the commission shall require the electric distribution company to file a revenue-neutral
allocated cost of service study for all rate classes and a proposal for new rates for all customers in
each rate class. The electric distribution company shall use the distribution revenue requirement
upon which the then-current distribution rates were set. The electric distribution company may
use the allocated cost of service that was filed with the compliance filing from the rate case when
the then current distribution rates were set. The commission may also address the rate design for
the equitable recovery of costs associated with energy efficiency and any renewable energy
programs that are recovered in rates.

(b) In establishing any new rates the commission may deem appropriate, the commission
shall take into account and balance the following factors:

(1) The benefits of distributed energy resources;

(2) The distribution services being provided to net metered customers when the
distributed generation is not producing electricity;

(3) Simplicity, understandability and transparency of rates to all customers, including
non-net metered and net-metered customers;

(4) Equitable ratemaking principles regarding the allocation of the costs of the
distribution system;

(5) Cost causation principles;

(6) The general assembly's legislative purposes in creating the distributed generation
growth program; and

(7) Any other factors the commission deems relevant and appropriate in establishing a
fair rate structure. The rates shall be designed for each proposed rate class in accordance with
industry-standard cost allocation principles. The commission may consider any reasonable rate
design options, including without limitation, fixed charges, minimum monthly charges, demand
charges, volumetric charges, or any combination thereof, with the purpose of assuring recovery of
costs fairly across all rate classes.

(c) The commission shall issue an order in the docket by no later than December 1, 2015.
Any new rates shall take effect for usage on and after January 1, 2016; provided, however, that
the electric distribution company may seek an extension if necessary to make the billing system
changes necessary to implement a new rate structure. After new revenue-neutral rates are set in
the docket specified above, the commission may approve changes to the rate design in any future
distribution base rate cases when a fully allocated embedded cost of service study is being
reviewed in the rate case, subject to the principles set forth in subsection (b) of this section.

39-26.6-25. Forecasted rate and reconciliation. -- (a) Three (3) months prior to the beginning of the first program year, the electric distribution company shall file a forecast of the total amount of payments that is likely to be paid out to distributed generation projects in the coming program year within the electric distribution company’s load zone, along with any costs permitted for recovery pursuant to §§ 39-26.6-4, 39-26.6-13 and 39-26.6-18. The total of all forecasted payments and costs shall be aggregated, net of forecasted revenues from the sale of the energy, renewable energy certificates, and any other market products from the distributed generation projects participating in the performance based incentive program. The forecasted net aggregate amount shall be used to design a fixed monthly charge per customer to recover the net forecast in rates charged to all distribution customers during the prospective calendar year, which fixed charge may be different by rate class in order to reasonably and equitably spread the program costs across all customer classes. The fixed rate shall stay in effect until changed after the first reconciliation filing set forth below and the rate reconciliation process shall be repeated annually, as set forth below. The commission, in its discretion, may move the reconciliation of costs and credits under § 39-26.1-5(f) into this reconciliation in order to have one reconciliation of all program costs and credits from the long-term contracting standard, distributed generation standard contracting, and renewable energy growth program.

(b) Within three (3) months after the end of each program year, the electric distribution company shall reconcile the total amount recovered from distribution customers against the total of net payments and costs for the program year. The electric distribution company shall file the reconciliation with a report along with a new forecast of payments to be made for the next twelve (12) month period, net of forecasted revenues for the resale of energy, renewable energy certificates, or any other market attributes sold by the electric distribution company. The forecast shall be used to set a new rate in the same manner as set forth above and the new rate shall remain in effect until rates are reset in the next annual reconciliation and the reconciliation balance shall be reflected in the new rate.

SECTION 2. Section 39-26.1-3 of the General Laws in Chapter 39-26.1 entitled “Long-Term Contracting Standard for Renewable Energy” is hereby amended to read as follows:

39-26.1-3. Long-term contract standard. -- (a) Beginning on or before July 1, 2010, each electric distribution company shall be required to annually solicit proposals from renewable energy developers and, provided commercially reasonable proposals have been received, enter into long-term contracts with terms of up to fifteen (15) years for the purchase of capacity, energy and attributes from newly developed renewable energy resources. Subject to commission
approval, the electric distribution company may enter into contracts for term lengths longer than
fifteen (15) years. Notwithstanding any other provisions of this chapter, on or before August 15,
2009, the electric distribution company shall solicit proposals for one newly developed renewable
energy resources project as required in section § 39-26.1-7. Proposals for the sale of output from
an offshore wind project received under the provisions of this section shall be diligently and fully
considered without prejudice, regardless of the status of any proceedings under sections §§ 39-

(b) The timetable and method for solicitation and execution of such contracts shall be
proposed by the electric distribution company, and shall be subject to review and approval by the
commission prior to issuance by the company.; provided that the timetable is reasonably designed
to result in the electric distribution company having the minimum long-term contract capacity
under contract within four (4) years of the date of the first solicitation; it is not necessary that the
projects associated with these contracts be operational within these four (4) years, as the
operational dates shall be specified in the contract. The electric distribution company shall,
subject to review and approval of the commission, select a reasonable method of soliciting
proposals from renewable energy developers, which shall include, at a minimum, an annual
public solicitation, but may also include individual negotiations. The solicitation process shall
permit a reasonable amount of negotiating discretion for the parties to engage in commercially
reasonable arms-length negotiations over final contract terms. Each long-term contract entered
into pursuant to this section shall contain a condition that it shall not be effective without
commission review and approval. The electric distribution company shall file such contract, along
with a justification for its decision, within a reasonable time after it has executed the contract
following a solicitation or negotiation. The commission shall hold public hearings to review the
contract within forty-five (45) days of the filing and issue a written order approving or rejecting
the contract within sixty (60) days of the filing; in rejecting a contract the commission may advise
the parties of the reason for the contract being rejected and direct the parties to attempt to address
the reasons for rejection in a revised contract within a specified period not to exceed ninety (90)
days. The commission shall approve the contract if it determines that: (1) the contract is
commercially reasonable; (2) the requirements for the annual solicitation have been met; and (3)
the contract is consistent with the purposes of this chapter. A report on each solicitation shall be
filed with the commission each year within a reasonable time after decisions are made by the
electric distribution company regarding the solicitation results, even if no contracts are executed
following the solicitation.

(c) (1) No electric distribution company shall be obligated to enter into long-term
contracts for newly developed renewable energy resources on terms which the electric
distribution company reasonably believes to be commercially unreasonable; provided, however, if
there is a dispute about whether these terms are commercially unreasonable, the commission shall
make the final determination after an evidentiary hearing. The electric distribution company shall
not be obligated to enter into long-term contracts pursuant to this section that would, in the
aggregate, exceed the minimum long-term contract capacity, but may do so voluntarily subject to
commission approval. As long as the electric distribution company has entered into long-term
contracts in compliance with this section, the electric distribution company shall not be required
by regulation or order to enter into power purchase contracts with renewable generation projects
for power, renewable energy certificates, or any other attributes with terms of more than three (3)
years in meeting its applicable annual renewable portfolio standard requirements set forth in
section 39-26-4 or pursuant to any other provision of the law.

(2) Except as provided in section 39-26.1-7 and 39-26.1-8, an electric distribution
company shall not be required to enter into long-term contracts for newly developed renewable
energy resources that exceed the following five (5) year phased schedule:

By December 30, 2010: Twenty-five percent (25%) of the minimum long-term contract
capacity;

By December 30, 2011: Fifty percent (50%) of the minimum long-term contract
capacity;

By December 30, 2012: Seventy-five percent (75%) of the minimum long-term contract
capacity;

By December 30, 2013: One hundred percent (100%) of the minimum long-
term contract capacity, but may do so earlier voluntarily, subject to commission approval. The
electric distribution company also may purchase other attributes from the generator as part of the long-term contract.

(d) Compliance with the long-term contract standard shall be demonstrated through
procurement pursuant to the provisions of a long-term contract of energy, capacity and attributes
reflected in NE-GIS certificates relating to generating units certified by the commission as using
newly developed renewable energy resources, as evidenced by reports issued by the NE-GIS
administrator and the terms of the contract; provided, however, that the NE-GIS certificates were
procured pursuant to the provisions of a long-term contract. The electric distribution company
also may purchase other attributes from the generator as part of the long-term contract.

(e) After the adoption of the rules and regulations promulgated by the commission
pursuant to this chapter, an electric distribution company may, at its sole election, immediately
and from time to time, procure additional commercially reasonable long-term contracts for newly
developed renewable energy resources on an earlier timetable or above the minimum long-term contract capacity, subject to commission approval.

(f) At least once per year beginning in 2014, the electric distribution company shall conduct solicitations until one hundred percent (100%) of the minimum long-term contract capacity is met; provided, however, that no contracts shall be awarded unless the pricing under such contract(s) is below the forecasted market price of energy and renewable energy certificates over the term of the proposed contract, using industry standard forecasting methodologies as have been used to evaluate pricing in the past solicitation processes reviewed by the commission under this section. In such solicitations, the electric distribution company may elect not to acquire capacity, but shall acquire all environmental attributes and energy.

SECTION 3. Section 39-26.4-3 of the General Laws in Chapter 39-26.4 entitled "Net Metering" is hereby amended to read as follows:

39-26.4-3. Net metering. -- (a) The following policies regarding net metering of electricity from eligible net metering systems and regarding any person that is a renewable self-generator shall apply:

(1) The maximum allowable capacity for eligible net metering systems, based on nameplate capacity, shall be five megawatts (5 mw).

(2) The aggregate amount of net metering in Rhode Island shall not exceed three percent (3%) of peak load, provided that at least two megawatts (2 mw) are reserved for projects of less than fifty kilowatts (50 kw). The aggregate amount of net metering in the Block Island Power Company and the Pascoag Utility District shall not exceed three percent (3%) of peak load for each utility district.

(2) For ease of administering net metered accounts and stabilizing net metered account bills, the electric distribution company may elect (but is not required) to estimate for any twelve (12) month period:

(i) The production from the eligible net metering system; and

(ii) Aggregate consumption of the net metered accounts at the eligible net metering system site and establish a monthly billing plan that reflects the expected credits that would be applied to the net metered accounts over twelve (12) months. The billing plan would be designed to even out monthly billings over twelve (12) months, regardless of actual production and usage. If such election is made by the electric distribution company, the electric distribution company would reconcile payments and credits under the billing plan to actual production and consumption at the end of the twelve (12) month period and apply any credits or charges to the net metered accounts for any positive or negative difference, as applicable. Should there be a
material change in circumstances at the eligible net metering system site or associated accounts
during the twelve (12) month period, the estimates and credits may be adjusted by the electric
distribution company during the reconciliation period. The electric distribution company also may
elect (but is not required) to issue checks to any net metering customer in lieu of billing credits or
carry forward credits or charges to the next billing period. For residential eligible net metering
systems twenty-five kilowatts (25 kw) or smaller, the electric distribution company, at its option,
may administer renewable net metering credits month to month allowing unused credits to carry
forward into following billing period.

If the electricity generated by an eligible net metering system during a billing
period is equal to or less than the net metering customer's usage during the billing period for
electric distribution company customer accounts at the eligible net metering system site, the
customer shall receive renewable net metering credits, which shall be applied to offset the net
metering customer's usage on accounts at the eligible net metering system site.

If the electricity generated by an eligible net metering system during a billing
period is greater than the net metering customer's usage on accounts at the eligible net metering
system site during the billing period, the customer shall be paid by excess renewable net metering
credits for the excess electricity generated beyond the net metering customer's usage at the
eligible net metering system site up to an additional twenty-five percent (25%) of the renewable
self-generator's consumption during the billing period; unless the electric distribution company
and net metering customer have agreed to a billing plan pursuant to subdivision (3).

The rates applicable to any net metered account shall be the same as those that
apply to the rate classification that would be applicable to such account in the absence of net
metering including customer and demand charges and no other charges may be imposed to offset
net metering credits.

(b) The commission shall exempt electric distribution company customer accounts
associated with an eligible net metering system from back-up or standby rates commensurate with
the size of the eligible net metering system, provided that any revenue shortfall caused by any
such exemption shall be fully recovered by the electric distribution company through rates.

(c) Any prudent and reasonable costs incurred by the electric distribution company
pursuant to achieving compliance with subsection (a) and the annual amount of the distribution
component of any renewable net metering credits or excess renewable net metering credits
provided to accounts associated with eligible net metering systems, shall be aggregated by the
distribution company and billed to all distribution customers on an annual basis through a
uniform per kilowatt-hour (kwh) surcharge embedded in the distribution component of the rates
reflected on customer bills.

The billing process set out in this section shall be applicable to electric distribution companies thirty (30) days after the enactment of this chapter.

SECTION 4. Section 39-26.2-7 of the General Laws in Chapter 39-26.2 entitled "Distributed Generation Standard Contracts" is hereby amended to read as follows:

39-26.2-7. Standard contract -- Form and provisions. -- The following process shall be implemented to establish the non-price terms and conditions of the standard contract:

(1) A working group ("contract working group") shall be established and supervised by the board, consisting of the following members:

(i) The director of the office of energy resources;

(ii) A designee from the division of public utilities and carriers;

(iii) Two (2) designees of the electric distribution company;

(iv) Two (2) individuals designated by the office of energy resources who are experienced developers of renewable generation projects;

(v) One individual designated by the office of energy resources who represents a customer of the electric distribution company; and (vi) A lawyer designated by the office of energy resources who has at least three (3) years of experience in negotiating and/or developing power purchase agreements. With respect to the lawyer designated in (vi) above, the electric distribution company shall enter into a cost reimbursement agreement with such lawyer, to compensate the lawyer for the time spent serving in the contract working group at the reasonable hourly rate negotiated by the office of energy resources. The costs incurred by the electric distribution company under the reimbursement agreement shall be recovered in rates by the electric distribution company in the year incurred or the year following incurrence through an appropriate filing with the commission. The contract working group shall be an advisory group that is not to be considered to be an agency for purposes of the administrative procedures act or any other laws pertaining to public bodies.

(2) The contract working group shall work in good faith to develop standard contracts that would be applicable for various technologies for both small and large distributed generation projects. The standard contracts should balance the need for the project to obtain financing against the need for the distribution company to protect itself and its distribution customers against unreasonable risks. The standard contract should be developed from contracting terms typically utilized in the wholesale power industry, taking into account the size of each project and the technology. The standard contracts shall provide for the purchase of energy, capacity, renewable energy certificates, and all other environmental attributes and market products that are
available or may become available from the distributed generation facility. However, the electric
distribution company shall retain the right to separate out pricing for each market product under
the contracts for administrative and accounting purposes to avoid any detrimental accounting
effects or for administrative convenience, provided that such accounting as specified in the
contract does not affect the price and financial benefits to the seller as a seller of a bundled
product. The standard contract also shall:

(i) Hold the distributed generation facility owner liable for the cost of interconnection
from the distributed generation facility to the interconnect point with the distribution system, and
for any upgrades to the existing distributed generation system that may be required by the electric
distribution company. However, a distributed generation facility owner may appeal to the
commission to reduce any required system upgrade costs to the extent such upgrades can be
shown to benefit other customers of the electric distribution company and the balance of such
costs shall be included in rates by the electric distribution company for recovery in the year
incurred or the year following incurrence;

(ii) Require the distributed generation facility owner to make a performance guarantee
deposit to the electric distribution company of fifteen dollars ($15.00) for small distributed
generation projects or twenty-five dollars ($25.00) for large distributed generation projects for
every renewable energy certificate estimated to be generated per year under the contract, but at
least five hundred dollars ($500) and not more than seventy-five thousand dollars ($75,000), paid
at the time of contract execution;

(iii) Require the electric distribution company to refund the performance guarantee
deposit on a pro-rated basis of renewable energy credits actually delivered by the distributed
generation facility over the course of the first year of the project's operation, paid quarterly;

(iv) Provide that if the distributed generation facility has not generated ninety percent
(90%) of the output proposed in its enrollment application within eighteen (18) months after
execution of the contract, the contract shall be terminated and the performance guarantee shall be
forfeited. An eligible small-scale hydropower distributed generation facility that has not
generated ninety percent (90%) of the output proposed in its enrollment application within forty-
eight (48) months after execution of the contract shall result in the contract being terminated and
the performance guarantee being forfeited. An eligible anaerobic digestion distributed generation
facility that has not generated ninety percent (90%) of the output proposed in its enrollment
application within thirty-six (36) months after execution of the contract shall result in the contract
being terminated and the performance guarantee being forfeited. Any forfeited performance
guarantee deposits shall be credited to all distribution customers in rates and not retained by the
(v) Provide for flexible payment schedules that may be negotiated between the buyer and seller, but shall be no longer than quarterly if an agreement cannot be reached;

(vi) Require that an electric meter which conforms with standard industry norms be installed to measure the electrical energy output of the distributed generation facility, and require a system or procedure by which the distributed generation facility owner shall demonstrate creation of renewable energy credits, in a manner recognized and accounted for by the GIS; such demonstration of renewable energy credit creation to be at the distributed generation facility owner's expense. The electric distribution company may, at its discretion, offer to provide such a renewable energy credit measurement and accounting system or procedure to the distributed generation facility owner, and the distributed generation facility owner may, at its discretion, use the electric distribution company's program, or use that of an independent third party, approved by the commission, and the costs of such measurement and accounting are paid for by the distributed generation facility owner.

(vii) All distributed generation projects that have executed contracts will be required to submit quarterly reports on the progress of the project to the distribution company and the office of energy resources. Failure to submit these quarterly progress reports may result in the termination of the contract.

(3) If the contract working group reaches agreement on the terms of standard contracts, the board shall file the contracts with the commission for approval. If there are any disagreements, they shall be identified to the commission. The commission shall review the standard contracts for conformance with the standards set forth in subsection (2). Should there be any disputes, the commission shall issue an order resolving them. To the extent the commission needs expert assistance to resolve any disagreements noted in the filing, the commission is authorized to hire a consultant to assist it in the proceedings, the costs of which shall be recovered from electric distribution customers pursuant to a uniform factor established by the commission in rates for recovery by the electric distribution company in the year incurred or the year following incurrence, as requested through a filing by the electric distribution company. The commission shall issue an order approving standard forms of contract within sixty (60) days of the filing.

SECTION 5. This act shall take effect upon passage.
TRANSFER OF PUBLIC LANDS ACT AND RELATED STUDY

2012 GENERAL SESSION

STATE OF UTAH

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Senate Sponsor: Wayne L. Niederhauser

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Bill Wright

LONG TITLE
General Description:
This bill addresses issues related to public lands, including the transfer of title to public lands to the state and requiring the Constitutional Defense Council to study or draft proposed legislation on certain issues related to public lands.

Highlighted Provisions:
This bill:
- enacts the Transfer of Public Lands Act;
- defines terms;
- requires the United States to extinguish title to public lands and transfer title to those public lands to the state on or before December 31, 2014;
- provides that if the state transfers title to public lands with respect to which the state receives title to the public lands under the Transfer of Public Lands Act, the state shall retain 5% of the net proceeds the state receives, and pay 95% of the net proceeds the state receives to the United States;
- provides that the 5% of the net proceeds of those sales of public lands shall be deposited into the permanent State School Fund;
- provides a severability clause;
- requires the Constitutional Defense Council to study or draft legislation on certain issues related to the transfer, management, and taxation of public lands, including:
  - drafting proposed legislation creating a public lands commission; and
  - establishing actions that shall be taken to secure, preserve, and protect the state's rights and benefits related to the United States' duty to have extinguished title to public lands and transferred title to those public lands to the state; and
- makes technical and conforming changes.

Money Appropriated in this Bill:
None

Other Special Clauses:
This bill provides an immediate effective date.
Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63L-6-101 is enacted to read:

CHAPTER 6. TRANSFER OF PUBLIC LANDS ACT

63L-6-101. Title.

This chapter is known as the "Transfer of Public Lands Act."

Section 2. Section 63L-6-102 is enacted to read:

63L-6-102. Definitions.

As used in this chapter:

(1) "Governmental entity" is as defined in Section 59-2-511.

(2) "Net proceeds" means the proceeds from the sale of public lands, after subtracting expenses incident to the sale of the public lands.

(3) "Public lands" means lands within the exterior boundaries of this state except:

(a) lands to which title is held by a person who is not a governmental entity;

(b) lands owned or held in trust by this state, a political subdivision of this state, or an independent entity;

(c) lands reserved for use by the state system of public education as described in Utah Constitution Article X, Section 2, or a state institution of higher education listed in Section 53B-1-102;

(d) school and institutional trust lands as defined in Section 53C-1-103;
(e) lands within the exterior boundaries as of January 1, 2012, of the following that are designated as national parks:

(i) Arches National Park;
(ii) Bryce Canyon National Park;
(iii) Canyonlands National Park;
(iv) Capitol Reef National Park; and
(v) Zion National Park;

(f) lands within the exterior boundaries as of January 1, 2012, of the following national monuments managed by the National Park Service as of January 1, 2012:

(i) Cedar Breaks National Monument;
(ii) Dinosaur National Monument;
(iii) Hovenweep National Monument;
(iv) Natural Bridges National Monument;
(v) Rainbow Bridge National Monument; and
(vi) Timpanogos Cave National Monument;

(g) lands within the exterior boundaries as of January 1, 2012, of the Golden Spike National Historic Site;

(h) lands within the exterior boundaries as of January 1, 2012, of the following wilderness areas located in the state that, as of January 1, 2012, are designated as part of the National Wilderness Preservation System under the Wilderness Act of 1964, 16 U.S.C. 1131 et seq.:

(i) Ashdown Gorge Wilderness;
(ii) Beartrap Canyon Wilderness;
(iii) Beaver Dam Mountains Wilderness;
(iv) Black Ridge Canyons Wilderness;
(v) Blackridge Wilderness;
(vi) Box-Death Hollow Wilderness;
(vii) Canaan Mountain Wilderness;
Enrolled Copy
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113 (viii) Cedar Mountain Wilderness;
114 (ix) Cottonwood Canyon Wilderness;
115 (x) Cottonwood Forest Wilderness;
116 (xi) Cougar Canyon Wilderness;
117 (xii) Dark Canyon Wilderness;
118 (xiii) Deep Creek Wilderness;
119 (xiv) Deep Creek North Wilderness;
120 (xv) Deseret Peak Wilderness;
121 (xvi) Doc's Pass Wilderness;
122 (xvii) Goose Creek Wilderness;
123 (xviii) High Uintas Wilderness;
124 (xix) LaVerkin Creek Wilderness;
125 (xx) Lone Peak Wilderness;
126 (xxi) Mount Naomi Wilderness;
127 (xxii) Mount Nebo Wilderness;
128 (xxiii) Mount Olympus Wilderness;
129 (xxiv) Mount Timpanogos Wilderness;
130 (xxv) Paria Canyon-Vermilion Cliffs Wilderness;
131 (xxvi) Pine Valley Mountain Wilderness;
132 (xxvii) Red Butte Wilderness;
133 (xxviii) Red Mountain Wilderness;
134 (xxix) Slaughter Creek Wilderness;
135 (xxx) Taylor Creek Wilderness;
136 (xxxi) Twin Peaks Wilderness;
137 (xxxii) Wellsville Mountain Wilderness; and
138 (xxxiii) Zion Wilderness;
139 (i) lands with respect to which the jurisdiction is ceded to the United States as provided
140 in Section 63L-1-201 or 63L-1-203:
(j) real property or tangible personal property owned by the United States if the
property is within the boundaries of a municipality; or
(k) lands, including water rights, belonging to an Indian or Indian tribe, band, or
community that is held in trust by the United States or is subject to a restriction against
alienation imposed by the United States.

Section 3. Section 63L-6-103 is enacted to read:

63L-6-103. Transfer of public lands.
(1) On or before December 31, 2014, the United States shall:
(a) extinguish title to public lands; and
(b) transfer title to public lands to the state.
(2) If the state transfers title to any public lands with respect to which the state receives
title under Subsection (1)(b), the state shall:
(a) retain 5% of the net proceeds the state receives from the transfer of title; and
(b) pay 95% of the net proceeds the state receives from the transfer of title to the
United States.
(3) In accordance with Utah Constitution Article X, Section 5, the amounts the state
retains in accordance with Subsection (2)(a) shall be deposited into the permanent State School
Fund.

Section 4. Section 63L-6-104 is enacted to read:

63L-6-104. Severability clause.
If any provision of this chapter or the application of any provision to any person or
circumstance is held invalid by a final decision of a court of competent jurisdiction, the
remainder of this chapter shall be given effect without the invalid provision or application. The
provisions of this chapter are severable.

(1) During the 2012 interim, the Constitutional Defense Council created in Section
63C-4-101 shall prepare proposed legislation:
(a) creating a public lands commission to:
(i) administer the transfer of title of public lands to the state; and

(ii) address the management of public lands and the management of multiple uses of public lands, including addressing managing open space, access to public lands, local planning, and the sustainable yield of natural resources on public lands;

(b) to establish actions that shall be taken to secure, preserve, and protect the state's rights and benefits related to the United States' duty to have extinguished title to public lands, in the event that the United States does not meet the requirements of Title 63L, Chapter 6, Transfer of Public Lands Act;

(c) making any necessary modifications to the definition of "public lands" in Section 63L-6-102, including any necessary modifications to a list provided in Subsections 63L-6-102(3)(e) through (h);

(d) making a determination of or a process for determining interests, rights, or uses related to:

(i) easements;

(ii) geothermal resources;

(iii) grazing;

(iv) mining;

(v) natural gas;

(vi) oil;

(vii) recreation;

(viii) rights of entry;

(ix) special uses;

(x) timber;

(xi) water; or

(xii) other natural resources or other resources; and

(e) determining what constitutes "expenses incident to the sale of public lands" described in Subsection 63L-6-102(2).

(2) During the 2012 interim, the Constitutional Defense Council created in Section
63C-4-101 shall study and determine whether to prepare proposed legislation:

(a) to administer the process for:

(i) the United States to extinguish title to public lands;

(ii) the state to receive title to public lands from the United States; or

(iii) the state to transfer title to any public lands the state receives in accordance with Title 63L, Chapter 6, Transfer of Public Lands Act;

(b) establishing a prioritized list of management actions for the state and the political subdivisions of the state to perform on public lands:

(i) before and after the United States extinguishes title to public lands; and

(ii) to preserve and promote the state's interest in:

(A) protecting public health and safety;

(B) preventing catastrophic wild fire and forest insect infestation;

(C) preserving watersheds;

(D) preserving and enhancing energy and the production of minerals;

(E) preserving and improving range conditions; and

(F) increasing plant diversity and reducing invasive weeds on range and woodland portions of the public lands;

(c) establishing procedures and requirements for subjecting public lands to property taxation;

(d) establishing other requirements related to national forests, national recreation areas, or other public lands administered by the United States; and

(e) addressing the indemnification of a political subdivision of the state for actions taken in furtherance of Title 63L, Chapter 6, Transfer of Public Lands Act.


(4) The Constitutional Defense Council shall:

(a) make a preliminary report on its study and preparation of proposed legislation to the Natural Resources, Agriculture, and Environment Interim Committee and the Education Committee.
Interim Committee:

(i) on or before the June 2012 interim meeting; and

(ii) on or before the September 2012 interim meeting; and

(b) report on its findings, recommendations, and proposed legislation to the Natural Resources, Agriculture, and Environment Interim Committee and the Education Interim Committee on or before the November 2012 interim meeting.

Section 6. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.
STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOURTEEN

S.P. 568 - L.D. 1512

An Act To Increase Funding for Start-ups

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation promotes and encourages the growth of Maine small businesses by facilitating the ability of a business to raise capital by selling small amounts of securities to a wider pool of small investors with fewer restrictions; and

Whereas, the enactment of this legislation will provide immediate access to capital and streamline regulations for Maine small businesses without diminishing the regulatory protections for investors; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA §16304, sub-§6-A is enacted to read:

6-A. Short-form registration statement. The administrator may adopt by rule a form to be used as a short-form registration statement for securities being registered under this section and sold in offerings in which:

A. The issuer of the security is a corporation or other entity having its principal place of business in this State and registered with the Secretary of State as an entity formed under the laws of this State or authorized to transact business within this State;

B. The aggregate amount of securities sold to all investors by the issuer within any 12-month period is not more than $1,000,000;

C. The aggregate amount of securities sold to any investor by the issuer, including any amount sold during the 12-month period preceding the date of the transaction, does not exceed $5,000, or a greater amount as the administrator may provide by rule;
or order, unless the investor is an accredited investor as defined in 17 Code of Federal
Regulations, Section 230.501 (2013);

D. The offering meets the requirements of the federal exemption for limited
offerings and sales of securities not exceeding $1,000,000 in 17 Code of Federal
Regulations, Section 230.504 (2013);

E. The issuer files with the administrator, provides to investors and makes available
to potential investors an offering document setting forth the following:

(1) The name, legal status, physical address and website address of the issuer;
(2) The names of the directors, officers and any persons occupying a similar
status or performing similar functions;
(3) The name of each person holding more than 20% of the shares of the issuer;
(4) A description of the business of the issuer and the anticipated business plan
of the issuer;
(5) A description of the financial condition of the issuer, including the following:
   (a) For offerings that, together with all other offerings of the issuer within
      the preceding 12-month period, have, in the aggregate, offering amounts of
      $100,000 or less:
      (i) The income tax returns filed by the issuer for the most recently
          completed year, if any; and
      (ii) The financial statements of the issuer certified by the principal
           executive officer of the issuer to be true and complete in all material
           respects;
   (b) For offerings that, together with all other offerings of the issuer within
      the preceding 12-month period, have, in the aggregate, offering amounts of
      more than $100,000 but not more than $500,000, financial statements
      reviewed by a public accountant who is independent of the issuer, using
      professional standards and procedures for the review or standards and
      procedures established by the administrator by rule; or
   (c) For offerings that, together with all other offerings of the issuer within
      the preceding 12-month period, have, in the aggregate, offering amounts of
      more than $500,000, audited financial statements;
(6) A description of the stated purpose and intended use of the proceeds of the
      offering sought by the issuer;
(7) The offering amount, the deadline to reach the offering amount and regular
      updates regarding the progress of the issuer in meeting the offering amount;
(8) The price to the public of the securities or, if the price has not been
determined, the method for determining the price as long as prior to the sale each
investor is provided in writing the final price and all required disclosures with a
reasonable opportunity to rescind the commitment to purchase the securities; and
(9) A description of the ownership and capital structure of the issuer, including:
(a) The terms of the securities being offered and all other classes of security of the issuer, including how those terms may be modified, and a summary of the differences between the classes of securities, including how the rights of the securities being offered may be materially limited, diluted or qualified by the rights of any other class of security of the issuer;

(b) A description of how the exercise of the rights held by the principal shareholders of the issuer could negatively impact the purchasers of the securities being offered;

(c) The name and ownership level of each existing shareholder who owns more than 20% of any class of the securities of the issuer;

(d) How the securities being offered are being valued and examples of methods for how those securities may be valued by the issuer in the future, including during subsequent corporate actions; and

(e) The risks to purchasers of the securities relating to minority ownership in the issuer and the risks associated with corporate actions, including additional issuances of shares, a sale of the issuer or of assets of the issuer and transactions with related parties; and

F. The issuer sets aside in a separate bank account all funds raised as part of the offering to be held until such time as the minimum offering amount is reached. If the minimum offering amount is not met within one year of the effective date of the offering, the issuer must return all funds to investors.

An issuer who elects to use a short-form registration statement pursuant to this subsection must comply with other requirements set forth by rule adopted or order issued under this chapter.

Notwithstanding section 16304, subsection 3, the administrator may provide by rule that a short-form registration statement filed under this subsection is immediately effective upon filing or becomes effective within some other stated period after filing, conditionally or otherwise.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.
AN ACT to renumber and amend 551.605 (3); to amend 551.102 (11) (o), 551.305 (9), 551.401 (1), 551.402 (2) (b) and 551.402 (2) (f); and to create 227.01 (13) (zz), 551.102 (4m), 551.102 (8m), 551.102 (9m), 551.202 (13) (ar), 551.202 (14m), 551.202 (24m), 551.202 (26), 551.202 (27), 551.205, 551.206, 551.605 (3) (bm), 551.607 (2) (g) and 551.614 (1m) of the statutes; relating to: exemptions from securities registration requirements, reporting by certain financial institution holding companies, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 227.01 (13) (zz) of the statutes is created to read:

227.01 (13) (zz) Adjusts, under s. 551.206, the amounts specified in s. 551.202 (26) (c) 1. a. and 1. b. and (27) (c) 1. a. and 1. b.

SECTION 2. 551.102 (4m) of the statutes is created to read:

551.102 (4m) “Certified investor” means an individual who is a resident of this state and who, at the time of an offer or sale of securities, satisfies any of the following:

(a) Has an individual net worth, or joint net worth with the individual’s spouse, of at least $750,000. For purposes of calculating net worth under this paragraph, the individual’s primary residence shall be included as an asset and indebtedness secured by the primary residence shall be included as a liability.

(b) Had an individual income in excess of $100,000 in each of the two most recent years or joint income with the individual’s spouse in excess of $150,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year.

SECTION 3. 551.102 (8m) of the statutes is created to read:

551.102 (8m) “Financial institution holding company” means a bank holding company, as defined in 12 USC 1841 (a), or a savings and loan holding company, as defined in 12 USC 1467a (a) (1) (D).

SECTION 4. 551.102 (9m) of the statutes is created to read:

551.102 (9m) “Funding portal” has the meaning given in section 3 (a) (80) of the Securities Exchange Act of 1934 (15 USC 78c (a) (80)).

SECTION 5. 551.102 (11) (o) of the statutes is amended to read:

551.102 (11) (o) Any other person, other than an individual, of institutional character with total assets in excess of $10,000,000 not organized for the specific purpose of evading this chapter.

SECTION 6. 551.202 (13) (ar) of the statutes is created to read:

551.202 (13) (ar) A certified investor, or a person whom the issuer reasonably believes is a certified investor at the time of the sale or offer of the security, if all of the following apply:

1. The transaction meets the requirements of the federal exemption for intrastate offerings in section 3 (a)

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication.”
2. If the offer or sale of the security had been undertaken under an exemption specified in Rule 506 (a) to (c) adopted under the Securities Act of 1933 (17 CFR 230.506 (a) to (c)), the transaction would not have been disqualified from the exemption under Rule 506 (d) adopted under the Securities Act of 1933 (17 CFR 230.506 (d)), except that the administrator may waive the requirement under this subdivision and authorize transactions in reliance on the exemption under this paragraph notwithstanding the condition specified in this subdivision.

Section 7. 551.202 (14m) of the statutes is created to read:

551.202 (14m) (a) Any transaction pursuant to an offer directed by the offeror to not more than 100 residents of this state, excluding those persons designated in sub. (13) (a), (am), and (ar) but including persons exempt under sub. (24), if all of the following apply:

1. The issuer is a business entity that is organized under the laws of this state and authorized to do business in this state, that has its principal office in this state, and that has a majority of its full-time employees working in this state.

2. No commission or other remuneration is paid or given, directly or indirectly, for any person’s participation in the offer or sale of securities for the issuer unless the person is registered as a broker-dealer or agent under this chapter.

3. No general solicitation or general advertising is made in connection with the offer to sell or sale of the securities unless it has been permitted by the administrator.

4. If the transaction had been undertaken under an exemption specified in Rule 506 (a) to (c) adopted under the Securities Act of 1933 (17 CFR 230.506 (a) to (c)), the transaction would not have been disqualified from the exemption under Rule 506 (d) adopted under the Securities Act of 1933 (17 CFR 230.506 (d)), except that the administrator may waive the requirement under this subdivision and authorize transactions in reliance on the exemption under this paragraph notwithstanding the condition specified in this subdivision.

(b) The exemption under this subsection and the exemption under sub. (27) may be used in conjunction with each other.

Section 8. 551.202 (24m) of the statutes is created to read:

551.202 (24m) Any offer or sale of its securities by an issuer to a resident of this state if all of the following apply:

(a) The issuer is a business entity that is organized under the laws of this state and authorized to do business in this state, that has its principal office in this state and that has a majority of its full-time employees working in this state.

(b) The aggregate number of persons holding directly or indirectly all of the issuer’s securities, after the securities to be issued are sold, does not exceed 100, exclusive of persons under sub. (13) (a), (am), and (ar).

(c) No commission or other remuneration is paid or given, directly or indirectly, for soliciting any person in this state in connection with the offer to sell or sale of the securities, except to broker-dealers and agents licensed in this state.

(d) No advertising is published in connection with the offer to sell or sale of the securities unless it has been permitted by the division of securities.

(e) If the offer or sale of the security had been undertaken under an exemption specified in Rule 506 (a) to (c) adopted under the Securities Act of 1933 (17 CFR 230.506 (a) to (c)), the transaction would not have been disqualified from the exemption under Rule 506 (d) adopted under the Securities Act of 1933 (17 CFR 230.506 (d)), except that the administrator may waive the requirement under this paragraph and authorize transactions in reliance on the exemption under this subsection notwithstanding the condition specified in this paragraph.

Section 9. 551.202 (26) of the statutes is created to read:

551.202 (26) An offer or sale of a security by an issuer if the offer or sale is conducted in accordance with all of the following requirements:

(a) The issuer of the security is a business entity organized under the laws of this state and authorized to do business in this state.

(b) The transaction meets the requirements of the federal exemption for intrastate offerings in section 3 (a) (11) of the Securities Act of 1933 (15 USC 77c (a) (11)) and Rule 147 adopted under the Securities Act of 1933 (17 CFR 230.147).

(c) 1. Except as provided in subd. 2., the sum of all cash and other consideration to be received for all sales of the security in reliance on the exemption under this subsection, excluding sales to any accredited investor, certified investor, or institutional investor, does not exceed the following amount:

a. If the issuer has not undergone and made available to each prospective investor and the administrator the documentation resulting from a financial audit of its most recently completed fiscal year which complies with generally accepted accounting principles, $1,000,000 subject to adjustment under s. 551.206, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on the exemption under this subsection.

b. If the issuer has undergone and made available to each prospective investor and the administrator the documentation resulting from a financial audit of its most recently completed fiscal year which complies with generally accepted accounting principles, $1,000,000 subject to adjustment under s. 551.206, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on the exemption under this subsection.
recently completed fiscal year which complies with generally accepted accounting principles, $2,000,000 subject to adjustment under s. 551.206, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on the exemption under this subsection.

2. An offer or sale to an officer, director, partner, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning 10 percent or more of the outstanding shares of any class or classes of securities of the issuer does not count toward the monetary limitation in subd. 1.

a. and 1. b.

(d) The issuer does not accept more than $10,000 from any single purchaser unless the purchaser is an accredited investor or certified investor.

(e) The offering under this subsection is made exclusively through one or more Internet sites and each Internet site is registered with the division under s. 551.205 (1) (b).

(f) Not less than 10 days prior to the commencement of an offering of securities in reliance on the exemption under this subsection, the issuer files a notice with the administrator, in writing or in electronic form as prescribed by the administrator, which the administrator shall make available as an electronic document on the department of financial institutions Internet site, containing all of the following:

1. A notice of claim of exemption from registration, specifying that the issuer will be conducting an offering in reliance on the exemption under this subsection, accompanied by the filing fee specified in s. 551.614 (1m).

2. A copy of the disclosure statement to be provided to prospective investors in connection with the offering, containing all of the following:

a. A description of the company, its type of entity, the address and telephone number of its principal office, its history, its business plan, and the intended use of the offering proceeds, including any amounts to be paid, as compensation or otherwise, to any owner, executive officer, director, managing member, or other person occupying a similar status or performing similar functions on behalf of the issuer.

b. The identity of all persons owning more than 10 percent of the ownership interests of any class of securities of the company.

c. The identity of the executive officers, directors, managing members, and other persons occupying a similar status or performing similar functions in the name of and on behalf of the issuer, including their titles and their prior experience.

d. The terms and conditions of the securities being offered and of any outstanding securities of the company; the minimum and maximum amount of securities being offered, if any; either the percentage ownership of the company represented by the offered securities or the valuation of the company implied by the price of the offered securities; the price per share, unit, or interest of the securities being offered; any restrictions on transfer of the securities being offered; and a disclosure of any anticipated future issuance of securities that might dilute the value of securities being offered.

e. The identity of any person who has been or will be retained by the issuer to assist the issuer in conducting the offering and sale of the securities, including any Internet site operator but excluding persons acting solely as accountants or attorneys and employees whose primary job responsibilities involve the operating business of the issuer rather than assisting the issuer in raising capital.

f. For each person identified as required under subd. 2. e., a description of the consideration being paid to the person for such assistance.

g. A description of any litigation, legal proceedings, or pending regulatory action involving the company or its management.

h. The names and addresses, including the Uniform Resource Locator, of each Internet site that will be used by the issuer to offer or sell securities under this subsection.

i. Any additional information material to the offering, including, if appropriate, a discussion of significant factors that make the offering speculative or risky. This discussion shall be concise and organized logically and may not be limited to risks that could apply to any issuer or any offering.

3. An escrow agreement with a bank, savings bank, savings and loan association, or credit union chartered under the laws of this state in which the investor funds will be deposited, providing that all offering proceeds will be released to the issuer only when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount specified in the business plan as necessary to implement the business plan and that all investors may cancel their commitments to invest if that target offering amount is not raised by the time stated in the disclosure document.

(g) The issuer is not, either before or as a result of the offering, an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 USC 80a–3), or an entity that would be an investment company but for the exclusions provided in section 3 (c) of the Investment Company Act of 1940 (15 USC 80a–3 (c)), or subject to the reporting requirements of section 13 or 15 (d) of the Securities Exchange Act of 1934 (15 USC 78m or 78o (d)).

(h) The issuer informs all prospective purchasers of securities offered under this subsection that the securities have not been registered under federal or state securities law and that the securities are subject to limitations on resale. The issuer shall display the following legend conspicuously on the cover page of the disclosure document:
IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR DIVISION OR OTHER REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (e) OF SEC RULE 147 (17 CFR 230.147 (e)) AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AmENDED, AND THE APPLICABLE STATE SECURITIES LAWS. PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM, INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

(i) The issuer requires each purchaser to certify in writing or electronically as follows:

I UNDERSTAND AND ACKNOWLEDGE THAT:

I am investing in a high-risk, speculative business venture. I may lose all of my investment, or under some circumstances more than my investment, and I can afford this loss.

This offering has not been reviewed or approved by any state or federal securities commission or division or other regulatory authority and that no such person or authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering.

The securities I am acquiring in this offering are illiquid, that there is no ready market for the sale of such securities, that it may be difficult or impossible for me to sell or otherwise dispose of this investment, and that, accordingly, I may be required to hold this investment indefinitely.

I may be subject to tax on my share of the taxable income and losses of the company, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the company.

... (Signature)

(j) The issuer obtains from each purchaser of a security offered under this subsection evidence that the purchaser is a resident of this state and, if applicable, is an accredited investor or certified investor.

(k) All payments for purchase of securities offered under this subsection are directed to and held by the financial institution specified in par. (f) 3. The bank or depository institution shall notify the administrator of the receipt of payments for securities. This information shall be confidential as provided in s. 551.607 (2) (g).

(L) The issuer of securities offered under this subsection provides a copy of the disclosure document provided to the administrator under par. (f) 2. to each prospective investor at the time the offer of securities is made to the prospective investor.

(m) No offer or sale of a different class or series of security has been made by the issuer in reliance on the exemption under this subsection or sub. (27) during the immediately preceding 12-month period.

(n) If the offer or sale of the security had been undertaken under an exemption specified in Rule 506 (a) to (c) adopted under the Securities Act of 1933 (17 CFR 230.506 (a) to (c)), the transaction would not have been disqualified from the exemption under Rule 506 (d) adopted under the Securities Act of 1933 (17 CFR 230.506 (d)), except that the administrator may waive the requirement under this paragraph and authorize transactions in reliance on the exemption under this subsection notwithstanding the condition specified in this paragraph.

Section 10. 551.202 (27) of the statutes is created to read:

551.202 (27) An offer or sale of a security by an issuer if the offer or sale is conducted in accordance with all of the following requirements:

(a) The issuer of the security is a business entity organized under the laws of this state and authorized to do business in this state.

(b) The transaction meets the requirements of the federal exemption for intrastate offerings in section 3 (a) (11) of the Securities Act of 1933 (15 USC 77c (a) (11)) and Rule 147 adopted under the Securities Act of 1933 (17 CFR 230.147).

(c) I. Except as provided in subd. 2., the sum of all cash and other consideration to be received for all sales of the security in reliance on the exemption under this subsection, excluding sales to any accredited investor, certified investor, or institutional investor, does not exceed the following amount:

a. If the issuer has not undergone and made available to each prospective investor and the administrator the documentation resulting from a financial audit of its most recently completed fiscal year which complies with generally accepted accounting principles, $1,000,000 subject to adjustment under s. 551.206, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on the exemption under this subsection.

b. If the issuer has undergone and made available to each prospective investor and the administrator the documentation resulting from a financial audit of its most recently completed fiscal year which complies with gen-
eral accepted accounting principles, $2,000,000 subject to adjustment under s. 551.206, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on the exemption under this subsection.

2. An offer or sale to an officer, director, partner, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning 10 percent or more of the outstanding shares of any class or classes of securities of the issuer does not have the monetary limitation in subd. 1. a. and 1. b.

(d) The offer does not accept more than $10,000 from any single purchaser unless the purchaser is an accredited investor or certified investor.

(e) No commission or other remuneration is paid or given, directly or indirectly, for any person's participation in the offer or sale of securities for the issuer unless the person is registered as a broker-dealer or agent under this chapter. This paragraph does not apply if the offer or sale of the security is to a certified investor.

(f) No general solicitation or general advertising is made in connection with the offer to sell or sale of the securities unless it has been permitted by the administrator.

(g) All funds received from investors are deposited into a bank, savings bank, savings and loan association, or credit union charted under the laws of this state, and all the funds are used in accordance with representations made to investors.

(h) Before the 101st offer of the security, the issuer provides a notice to the administrator in writing or in electronic form, accompanied by the filing fee specified in s. 551.614 (1m). The administrator shall prescribe the form required for the notice and make the form available as an electronic document on the department of financial institutions Internet site. Notwithstanding s. 551.204 (1) and (3), the notice shall be limited to all of the following:

1. Stating that the issuer is conducting an offering in reliance on the exemption under this subsection.

2. Identifying the names and addresses of all of the following persons:
   a. The issuer.
   b. All persons who will be involved in the offer or sale of securities on behalf of the issuer.
   c. The bank, savings bank, savings and loan association, or credit union in which investor funds will be deposited.
   i. The issuer is not, either before or as a result of the offering, an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 USC 80a−3), or subject to the reporting requirements of section 13 or 15 (d) of the Securities Exchange Act of 1934 (15 USC 78m or 78o (d)).
   j. The issuer informs all purchasers that the securities have not been registered under this chapter and makes the disclosures required under subsection (f) of Rule 147 adopted under the Securities Act of 1933 (17 CFR 230.147 (f)).
   k. No offer or sale of a different class or series of security has been made by the issuer in reliance on the exemption under this subsection or sub. (26) during the immediately preceding 12-month period.
   L. If the offer or sale of the security had been undertaken under an exemption specified in Rule 506 (a) to (c) adopted under the Securities Act of 1933 (17 CFR 230.506 (a) to (c)), the transaction would not have been disqualified from the exemption under Rule 506 (d) adopted under the Securities Act of 1933 (17 CFR 230.506 (d)), except that the administrator may waive the requirement under this paragraph and authorize transactions in reliance on the exemption under this subsection notwithstanding the condition specified in this paragraph.

SECTION 11. 551.205 of the statutes is created to read:
551.205 Additional provisions related to crowdfunding exemption for intrastate offerings through Internet sites. (1) All of the following requirements apply to an offer or sale of securities pursuant to the exemption under s. 551.202 (26):

(a) Prior to any offer or sale of securities, the issuer shall provide to the Internet site operator evidence that the issuer is organized under the laws of this state and is authorized to do business in this state.

(b) 1. The Internet site operator shall register with the division by filing a statement, which the administrator shall make available as an electronic document on the department of financial institutions Internet site, accompanied by the filing fee specified in s. 551.614 (1m), that includes all of the following:
   a. That the Internet site operator is a business entity organized under the laws of this state and authorized to do business in this state.
   b. That the Internet site is being utilized to offer and sell securities pursuant to the exemption under s. 551.202 (26).
   c. The identity and location of, and contact information for, the Internet site operator.
   d. Except as provided in subds. 2. and 4., that the Internet site operator is registered as a broker-dealer under s. 551.401.

2. The Internet site operator is not required to register as a broker-dealer under s. 551.401 if all of the following apply with respect to the Internet site and its operator:
   a. It does not offer investment advice or recommendations.
   b. It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the Internet site.
   c. Except as provided in sub. (3), it does not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the Internet site.
d. Except as provided in sub. (3), it is not compensated based on the amount of securities sold, and it does not hold, manage, possess, or otherwise handle investor funds or securities.

e. Except as provided in sub. (3), the fee it charges an issuer for an offering of securities on the Internet site is a fixed amount for each offering, a variable amount based on the length of time that the securities are offered on the Internet site, or a combination of such fixed and variable amounts.

f. It does not identify, promote, or otherwise refer to any individual security offered on the Internet site in any advertising for the Internet site.

g. It does not engage in such other activities as the division, by rule, determines are prohibited of such an Internet site.

h. Neither the Internet site operator, nor any director, executive officer, general partner, managing member, or other person with management authority over the Internet site operator, has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506 (d) (1) adopted under the Securities Act of 1933 (17 CFR 230.506 (d) (1)) that would disqualify an issuer under Rule 506 (d) adopted under the Securities Act of 1933 (17 CFR 230.506 (d)) from claiming an exemption specified in Rule 506 (a) to (c) adopted under the Securities Act of 1933 (17 CFR 230.506 (a) to (c)).

3. If any change occurs in the information that an Internet site operator submits to the division in a statement filed under subd. 1., the Internet site operator shall notify the division within 30 days after the change occurs.

4. The Internet site operator is not required to register as a broker-dealer under s. 551.401 if the Internet site operator is registered as a broker-dealer under the Securities Exchange Act of 1934 (15 USC 78d) or if a funding portal registered under the Securities Act of 1933 (15 USC 77d−1) and the Securities and Exchange Commission has adopted rules under authority of section 3 (h) of the Securities Exchange Act of 1934 (15 USC 78c (h)) and P.L. 112−106, section 304, that authorize funding portals to receive commissions without registering as broker-dealers under the Securities Exchange Act of 1934, the division shall promulgate rules authorizing Internet site operators registered with the division under sub. (1) (b) that are not registered as broker-dealers under s. 551.401 to receive commissions. The division shall ensure that its rules authorizing commissions for Internet site operators are consistent with rules adopted by the Securities and Exchange Commission. The division’s rules shall also ensure that Internet site operators that do not satisfy rules adopted by the Securities and Exchange Commission have the opportunity to operate in compliance with the requirements of this section.

Section 12. 551.206 of the statutes is created to read: 551.206 Adjustments. At 5−year intervals after January 1, 2014, the department of financial institutions shall adjust the monetary amounts specified in s. 551.202 (26) (c) 1. a. and 1. b. and (27) (c) 1. a. and 1. b. to reflect changes since January 1, 2014, in the consumer price index for all urban consumers, Milwaukee−Racine area average, as determined by the U.S. department of labor. Each adjustment shall be rounded to the nearest multiple of $50,000. Each adjustment under this section shall be published on the department of financial institutions Internet site.

Section 13. 551.305 (9) of the statutes is amended to read:

551.305 (9) Periodic Reports. While a registration statement is effective, a rule adopted or order issued under this chapter may require the person that filed the registration statement to file reports, not more often than quarterly, to keep the information or other record in the registration statement reasonably current and to disclose the progress of the offering. No report may be required under this subsection of a financial institution holding company.
SECTION 14. 551.401 (1) of the statutes is amended to read:

551.401 (1) REGISTRATION REQUIREMENT. It is unlawful for a person to transact business in this state as a broker-dealer unless the person is registered under this chapter as a broker-dealer or is exempt from registration as a broker-dealer under sub. (2) or (4) or s. 551.205 (1) (b) 2.

SECTION 15. 551.402 (2) (b) of the statutes is amended to read:

551.402 (2) (b) An individual who represents a broker-dealer that is exempt under s. 551.205 (1) (b) 2. or 551.401 (2) or (4).

SECTION 16. 551.402 (2) (f) of the statutes is amended to read:

551.402 (2) (f) An individual who represents a broker-dealer registered in this state under s. 551.401 (1) or exempt from registration under s. 551.205 (1) (b) 2. or 551.401 (2) in the offer and sale of securities for an account of a nonaffiliated federal covered investment adviser with investments under management in excess of $100,000,000 acting for the account of others pursuant to discretionary authority in a signed record.

SECTION 17. 551.605 (3) of the statutes is renumbered 551.605 (3) (am), and 551.605 (3) (am) (intro.), as renumbered, is amended to read:

551.605 (3) (am) (intro.) Subject to section 15 (h) of the Securities Exchange Act and section 222 of the Investment Advisers Act of 1940, and except as provided in par. (bm), the administrator may require that a financial statement filed under this chapter be prepared in accordance with generally accepted accounting principles in the United States and comply with other requirements specified by rule adopted or order issued under this chapter. Except as provided in par. (bm), a rule adopted or order issued under this chapter may establish:

SECTION 18. 551.605 (3) (bm) of the statutes is created to read:

551.605 (3) (bm) 1. Except as provided in subd. 2., a financial institution holding company whose securities have been registered under this chapter shall not be required to prepare or distribute to shareholders or provide to the department of financial institutions, at any time after such registration, any financial statements, financial information, annual reports, or other periodic reports except to the extent required under ss. 180.1620 and 180.1622.

2. Each financial institution holding company whose securities have been registered under this chapter and are held by 100 or more persons in this state shall distribute to the security holders not more than 120 days after the end of each fiscal year the annual financial statements prepared under s. 180.1620. This subdivision does not apply to a financial institution holding company that has any securities registered under section 12 of the Securities Exchange Act of 1934 (15 USC 78l).

3. If any financial statement is required of a financial institution holding company under this chapter, the financial institution holding company shall not be required to do any of the following:

a. Except as may be required under s. 180.1620, have the financial statement prepared in accordance with generally accepted accounting principles.

b. Have the financial statement examined and reported upon or reviewed by or compiled by any certified public accountant.

SECTION 19. 551.607 (2) (g) of the statutes is created to read:

551.607 (2) (g) Any information or record received under s. 551.202 (26) (k) relating to payments for securities, the copy of the disclosure statement provided to the administrator under s. 551.202 (26) (f) 2., and any information or record obtained by the division under s. 551.205 (1) (c).

SECTION 20. 551.614 (1m) of the statutes is created to read:

551.614 (1m) FILING FEES RELATING TO CERTAIN REGISTRATION EXEMPTIONS. There shall be a nonrefundable filing fee of $50 for every notice of claim of exemption filed under s. 551.202 (26) (f) 1., a nonrefundable filing fee of $50 for every notice provided under s. 551.202 (27) (h), and a nonrefundable filing fee of $100 for every statement filed under s. 551.205 (1) (b) 1.

SECTION 21. Initial applicability.

(1) The treatment of sections 551.102 (4m) and (11) (o), 551.202 (13) (ar), 551.202 (14m), and 551.202 (24m) of the statutes first applies to securities offered or sold on the effective date of this subsection.

(2) The treatment of sections 551.102 (8m) and (9m), 551.202 (26) and (27), 551.205, 551.401 (1), 551.402 (2) (b) and (f), 551.607 (2) (g), and 551.614 (1m) of the statutes first applies to securities offered or sold on the first day of the 7th month beginning after the effective date of this subsection.
AN ACT Relating to allowing crowdfunding for certain small securities offerings; amending RCW 42.56.270; adding new sections to chapter 21.20 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. This act may be known and cited as the Washington jobs act of 2014.

NEW SECTION. Sec. 2. The legislature finds that start-up companies play a critical role in creating new jobs and revenues. Crowdfunding, or raising money through small contributions from a large number of investors, allows smaller enterprises to access the capital they need to get new businesses off the ground. The legislature further finds that the costs of state securities registration often outweigh the benefits to Washington start-ups seeking to make small securities offerings and that the use of crowdfunding for business financing in Washington is significantly restricted by state securities laws. Helping new businesses access equity crowdfunding within certain boundaries will democratize venture capital and facilitate investment by Washington residents in Washington start-ups while protecting
consumers and investors. For these reasons, the legislature intends to provide Washington businesses and investors the opportunity to benefit from equity crowdfunding.

**NEW SECTION. Sec. 3.** A new section is added to chapter 21.20 RCW to read as follows:

(1) Any offer or sale of a security is exempt from RCW 21.20.040 through 21.20.300 and 21.20.327, except as expressly provided, if:

(a) The offering is first declared exempt by the director after:

(i) The issuer files the offering with the director; or

(ii) A portal working in collaboration with the director files the offering with the director on behalf of the issuer under section 4 of this act;

(b) The offering is conducted in accordance with the requirements of section 3(a)(11) of the securities act of 1933 and securities and exchange commission rule 147, 17 C.F.R. Sec. 230.147;

(c) The issuer is an entity organized and doing business in the state of Washington;

(d) Each investor provides evidence or certification of residency in the state of Washington at the time of purchase;

(e) The issuer files with the director an escrow agreement either directly or through a portal providing that all offering proceeds will be released to the issuer only when the aggregate capital raised from all investors equals or exceeds the minimum target offering, as determined by the director;

(f) The aggregate purchase price of all securities sold by an issuer pursuant to the exemption provided by this section does not exceed one million dollars during any twelve-month period;

(g) The aggregate amount sold to any investor by one or more issuers during the twelve-month period preceding the date of the sale does not exceed:

(i) The greater of two thousand dollars or five percent of the annual income or net worth of the investor, as applicable, if either the annual income or the net worth of the investor is less than one hundred thousand dollars; or

(ii) Ten percent of the annual income or net worth of the investor, as applicable, up to one hundred thousand dollars, if either the annual income or net worth of the investor
income or net worth of the investor is one hundred thousand dollars or
more;

(h) The investor acknowledges by manual or electronic signature the
following statement conspicuously presented at the time of sale on a
page separate from other information relating to the offering: "I
acknowledge that I am investing in a high-risk, speculative business
venture, that I may lose all of my investment, and that I can afford
the loss of my investment";

(i) The issuer reasonably believes that all purchasers are
purchasing for investment and not for sale in connection with a
distribution of the security; and

(j) The issuer and investor provide any other information
reasonably requested by the director.

(2) Attempted compliance with the exemption provided by this
section does not act as an exclusive election. The issuer may claim
any other applicable exemption.

(3) For as long as securities issued under the exemption provided
by this section are outstanding, the issuer shall provide a quarterly
report to the issuer's shareholders and the director by making such
report publicly accessible, free of charge, at the issuer's internet
web site address within forty-five days of the end of each fiscal
quarter. The report must contain the following information:

(a) Executive officer and director compensation, including
specifically the cash compensation earned by the executive officers and
directors since the previous report and on an annual basis, and any
bonuses or other compensation, including stock options or other rights
to receive equity securities of the issuer or any affiliate of the
issuer, received by them; and

(b) A brief analysis by management of the issuer of the business
operations and financial condition of the issuer.

(4) Securities issued under the exemption provided by this section
may not be transferred by the purchaser during a one-year period
beginning on the date of purchase, unless the securities are
transferred:

(a) To the issuer of the securities;

(b) To an accredited investor;

(c) As part of a registered offering; or
(d) To a member of the family of the purchaser or the equivalent, or in connection with the death or divorce or other similar circumstances, in the discretion of the director.

(5) The director shall adopt disqualification provisions under which this exemption shall not be available to any person or its predecessors, affiliates, officers, directors, underwriters, or other related persons. The provisions shall be substantially similar to the disqualification provisions adopted by the securities and exchange commission pursuant to the requirements of section 401(b)(2) of the Jobs act of 2012 or, if none, as adopted in Rule 506 of Regulation D. Notwithstanding the foregoing, this exemption shall become available on the effective date of this section.

NEW SECTION. Sec. 4. A new section is added to chapter 21.20 RCW to read as follows:

(1) Only a local associate development organization, as defined in RCW 43.330.010, a port district, or an organization that qualifies as a portal pursuant to regulations promulgated by the director, may work in collaboration with the director to act as a portal under this chapter.

(2) A portal shall require, at a minimum, the following information from an applicant for exemption prior to offering services to the applicant or forwarding the applicant's materials to the director:

(a) A description of the issuer, including type of entity, location, and business plan, if any;

(b) The applicant's intended use of proceeds from an offering under this act;

(c) Identities of officers, directors, managing members, and ten percent beneficial owners, as applicable;

(d) A description of any outstanding securities; and

(e) A description of any litigation or legal proceedings involving the applicant, its officers, directors, managing members, or ten percent beneficial owners, as applicable.

(3) Upon receipt of the information described in subsection (2) of this section, the portal may offer services to the applicant that the portal deems appropriate or necessary to meet the criteria for exemption under sections 3 and 5 of this act. Such services may


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include assistance with development of a business plan, referral to legal services, and other technical assistance in preparation for a public securities offering.

(4) The portal shall forward the materials necessary for the applicant to qualify for exemption to the director for filing when the portal is satisfied that the applicant has assembled the necessary information and materials to meet the criteria for exemption under sections 3 and 5 of this act.

(5) The portal shall work in collaboration with the director for the purposes of executing the offering upon filing with the director.

NEW SECTION. Sec. 5. A new section is added to chapter 21.20 RCW to read as follows:

The director must adopt rules to implement sections 2 and 3 of this act subject to RCW 21.20.450 including, but not limited to:

(1) Adopting rules for filing with the director under sections 3 and 4 of this act by October 1, 2014;

(2) Establishing filing and transaction fees sufficient to cover the costs of administering this section and sections 2 through 4 of this act by January 1, 2015; and

(3) Adopting any other rules to implement sections 3 and 4 of this act by April 1, 2015.

The director shall take steps and adopt rules to implement this section by the dates specified in this section.

Sec. 6. RCW 42.56.270 and 2013 c 305 s 14 are each amended to read as follows:

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

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

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;
(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

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

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

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

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

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

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

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

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;
(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

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

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

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

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

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

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

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

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;
(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

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

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

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

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

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

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

(21) Financial, commercial, operations, and technical and research information and data submitted to or obtained by innovate Washington in applications for, or delivery of, grants and loans under chapter 43.333 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information; 

(22) Market share data submitted by a manufacturer under RCW 70.95N.190(4); and
(23) Financial information supplied to the department of financial institutions or to a portal under section 4 of this act, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under section 3 of this act or when filed by or on behalf of an investor for the purpose of purchasing such securities.

Passed by the House March 11, 2014.
Passed by the Senate March 7, 2014.
Approved by the Governor March 28, 2014.
Filed in Office of Secretary of State March 31, 2014.
An Act

SENATE BILL 14-125

BY SENATOR(S) Jahn and Harvey, Baumgardner, Cadman, Crowder, Grantham, Herpin, Hodge, Johnston, Lambert, Marble, Newell, Rivera, Steadman, Todd, Zenzinger, Aguilar; also REPRESENTATIVE(S) Pabon and Szabo, Becker, Coram, Foote, Garcia, Gardner, Hamner, Holbert, Hullinghorst, Joshi, Kagan, Landgraf, Lawrence, May, McCann, McNulty, Murray, Navarro, Nordberg, Priola, Rankin, Schafer, Scott, Singer, Stephens, Vigil, Williams, Wilson, Wright, Ginal, Pettersen, Rosenthal, Saine, Sonnenberg, Young.

CONCERNING THE REGULATION OF TRANSPORTATION NETWORK COMPANIES, AND, IN CONNECTION THEREWITH, REQUIRING TRANSPORTATION NETWORK COMPANIES TO CARRY LIABILITY INSURANCE, CONDUCT BACKGROUND CHECKS ON TRANSPORTATION NETWORK COMPANY DRIVERS, INSPECT TRANSPORTATION NETWORK COMPANY VEHICLES, AND OBTAIN A PERMIT FROM THE PUBLIC UTILITIES COMMISSION; AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 40-1-102, amend (3) (b) as follows:

40-1-102. Definitions. As used in articles 1 to 7 of this title, unless

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.
the context otherwise requires:

(3) (b) "Common carrier" does not include a motor carrier that provides transportation not subject to regulation pursuant to section 40-10.1-105, or a motor carrier that is subject to part 3, 4, or 5 of article 10.1 of this title, a transportation network company, as defined in section 40-10.1-602 (3), or a transportation network company driver, as defined in section 40-10.1-602 (4).

SECTION 2. In Colorado Revised Statutes, 40-7-112, amend (1) (a) as follows:

40-7-112. Applicability of civil penalties. (1) (a) A person who operates or offers to operate as a motor carrier as defined in section 40-10.1-101; or a motor carrier, motor private carrier, broker, freight forwarder, leasing company, or other person required to register under section 40-10.5-102; or a transportation network company required to obtain a permit under section 40-10.1-606 is subject to civil penalties as provided in this section and sections 40-7-113 to 40-7-116, in addition to any other sanctions that may be imposed pursuant to law.

SECTION 3. In Colorado Revised Statutes, 40-10.1-101, amend (6) and (10) as follows:

40-10.1-101. Definitions. As used in this article, unless the context otherwise requires:

(6) "Contract carrier" means every person, other than a common carrier or a motor carrier of passengers under part 3 of this article, who, by special contract, directly or indirectly affords a means of passenger transportation over any public highway of this state; except that the term does not include a transportation network company, as defined in section 40-10.1-602 (3), or a transportation network company driver, as defined in section 40-10.1-602 (4).

(10) "Motor carrier" means any person owning, controlling, operating, or managing any motor vehicle that provides transportation in intrastate commerce pursuant to this article; except that the term does not include a transportation network company, as defined in

SECTION 4. In Colorado Revised Statutes, 40-10.1-103, add (3) as follows:

40-10.1-103. Subject to control by commission. (3) TRANSPORTATION NETWORK COMPANIES, AS DEFINED IN SECTION 40-10.1-602 (3), ARE NOT COMMON CARRIERS, CONTRACT CARRIERS, OR MOTOR CARRIERS UNDER THIS TITLE, BUT ARE DECLARED TO BE AFFECTED WITH A PUBLIC INTEREST AND ARE SUBJECT TO REGULATION TO THE EXTENT PROVIDED IN PART 6 OF THIS ARTICLE.

SECTION 5. In Colorado Revised Statutes, add 40-10.1-117 as follows:

40-10.1-117. Limited regulation of transportation network companies. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, TRANSPORTATION NETWORK COMPANIES, AS DEFINED IN SECTION 40-10.1-602 (3), ARE GOVERNED EXCLUSIVELY UNDER PART 6 OF THIS ARTICLE.

SECTION 6. In Colorado Revised Statutes, add part 6 to article 10.1 of title 40 as follows:

PART 6
TRANSPORTATION NETWORK COMPANIES

40-10.1-601. Short title. This article shall be known and may be cited as the "Transportation Network Company Act".

40-10.1-602. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "PERSONAL VEHICLE" MEANS A VEHICLE THAT IS USED BY A TRANSPORTATION NETWORK COMPANY DRIVER IN CONNECTION WITH PROVIDING SERVICES FOR A TRANSPORTATION NETWORK COMPANY THAT MEETS THE VEHICLE CRITERIA SET FORTH IN THIS PART 6.

(2) "PREARRANGED RIDE" MEANS A PERIOD OF TIME THAT BEGINS...
WHEN A DRIVER ACCEPTS A REQUESTED RIDE THROUGH A DIGITAL NETWORK, CONTINUES WHILE THE DRIVER TRANSPORTS THE RIDER IN A PERSONAL VEHICLE, AND ENDS WHEN THE RIDER DEPARTS FROM THE PERSONAL VEHICLE.

(3) "TRANSPORTATION NETWORK COMPANY" MEANS A CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, OR OTHER ENTITY, OPERATING IN COLORADO, THAT USES A DIGITAL NETWORK TO CONNECT RIDERS TO DRIVERS FOR THE PURPOSE OF PROVIDING TRANSPORTATION. A TRANSPORTATION NETWORK COMPANY DOES NOT PROVIDE TAXI SERVICE, TRANSPORTATION SERVICE ARRANGED THROUGH A TRANSPORTATION BROKER, RIDE-SHARING ARRANGEMENTS, AS DEFINED IN SECTION 39-22-509 (1) (a) (II), C.R.S., OR ANY TRANSPORTATION SERVICE OVER FIXED ROUTES AT REGULAR INTERVALS. A TRANSPORTATION NETWORK COMPANY IS NOT DEEMED TO OWN, CONTROL, OPERATE, OR MANAGE THE PERSONAL VEHICLES USED BY TRANSPORTATION NETWORK COMPANY DRIVERS. A TRANSPORTATION NETWORK COMPANY DOES NOT INCLUDE A POLITICAL SUBDIVISION OR OTHER ENTITY EXEMPTED FROM FEDERAL INCOME TAX UNDER SECTION 115 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

(4) "TRANSPORTATION NETWORK COMPANY DRIVER" OR "DRIVER" MEANS AN INDIVIDUAL WHO USES HIS OR HER PERSONAL VEHICLE TO PROVIDE SERVICES FOR RIDERS MATCHED THROUGH A TRANSPORTATION NETWORK COMPANY’S DIGITAL NETWORK. A DRIVER NEED NOT BE AN EMPLOYEE OF A TRANSPORTATION NETWORK COMPANY.

(5) "TRANSPORTATION NETWORK COMPANY RIDER" OR "RIDER" MEANS A PASSENGER IN A PERSONAL VEHICLE FOR WHOM TRANSPORT IS PROVIDED, INCLUDING:

(a) AN INDIVIDUAL WHO USES A TRANSPORTATION NETWORK COMPANY’S ONLINE APPLICATION OR DIGITAL NETWORK TO CONNECT WITH A DRIVER TO OBTAIN SERVICES IN THE DRIVER’S VEHICLE FOR THE INDIVIDUAL AND ANYONE IN THE INDIVIDUAL’S PARTY; OR

(b) ANYONE FOR WHOM ANOTHER INDIVIDUAL USES A TRANSPORTATION NETWORK COMPANY’S ONLINE APPLICATION OR DIGITAL NETWORK TO CONNECT WITH A DRIVER TO OBTAIN SERVICES IN THE DRIVER’S VEHICLE.
"TRANSPORTATION NETWORK COMPANY SERVICES" OR "SERVICES" MEANS THE PROVISION OF TRANSPORTATION BY A DRIVER TO A RIDER WITH WHOM THE DRIVER IS MATCHED THROUGH A TRANSPORTATION NETWORK COMPANY. THE TERM DOES NOT INCLUDE SERVICES PROVIDED EITHER DIRECTLY BY OR UNDER CONTRACT WITH A POLITICAL SUBDIVISION OR OTHER ENTITY EXEMPT FROM FEDERAL INCOME TAX UNDER SECTION 115 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

40-10.1-603. Limited regulation. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, TRANSPORTATION NETWORK COMPANIES ARE GOVERNED EXCLUSIVELY BY THIS PART 6. A TRANSPORTATION NETWORK COMPANY IS NOT SUBJECT TO THE COMMISSION'S RATE, ENTRY, OPERATIONAL, OR COMMON CARRIER REQUIREMENTS, OTHER THAN THOSE REQUIREMENTS EXPRESSLY SET FORTH IN THIS PART 6.

40-10.1-604. Registration - financial responsibility of transportation network companies - insurance. (1) A TRANSPORTATION NETWORK COMPANY SHALL COMPLY WITH THE FILING REQUIREMENTS OF PART 3 AND THE REGISTERED AGENT REQUIREMENT OF PART 7 OF ARTICLE 90 OF TITLE 7, C.R.S.

(2) A TRANSPORTATION NETWORK COMPANY SHALL FILE WITH THE COMMISSION DOCUMENTATION EVIDENCING THAT THE TRANSPORTATION NETWORK COMPANY OR THE DRIVER HAS SECURED PRIMARY LIABILITY INSURANCE COVERAGE FOR THE DRIVER FOR INCIDENTS INVOLVING THE DRIVER DURING A PREARRANGED RIDE. COVERAGE FOR INCIDENTS INVOLVING A DRIVER DURING A PREARRANGED RIDE MUST BE IN THE AMOUNT OF AT LEAST ONE MILLION DOLLARS PER OCCURRENCE. THE INSURANCE POLICY MUST PROVIDE COVERAGE AT ALL TIMES THE DRIVER IS ENGAGED IN A PREARRANGED RIDE. THIS SUBSECTION (2) BECOMES EFFECTIVE NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS PART 6.

(3) FOR THE PERIOD OF TIME WHEN A DRIVER IS LOGGED INTO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK BUT IS NOT ENGAGED IN A PREARRANGED RIDE, THE FOLLOWING INSURANCE REQUIREMENTS APPLY:

(a) A TRANSPORTATION NETWORK COMPANY OR A DRIVER SHALL MAINTAIN CONTINGENT LIABILITY INSURANCE WITH A LIABILITY LIMIT EQUAL TO AT LEAST THE MINIMUM AMOUNT REQUIRED BY SECTION
10-4-620, C.R.S. AT A MINIMUM, THE CONTINGENT LIABILITY INSURANCE MUST PROVIDE LIABILITY COVERAGE IF THE DRIVER'S INSURER FOR PERSONAL AUTOMOBILE INSURANCE VALIDLY DENIES COVERAGE UNDER THE TERMS OF THE DRIVER'S PERSONAL AUTOMOBILE INSURANCE POLICY OR THE DRIVER OTHERWISE DOES NOT HAVE PERSONAL AUTOMOBILE INSURANCE COVERAGE. NOTHING IN THIS PARAGRAPH (a) PRECLUDES AN INSURER'S RIGHT TO EQUITABLE SUBROGATION. THE REQUIREMENTS OF THIS PARAGRAPH (a) EXPIRE ON JANUARY 15, 2015, AND THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 2015.

(b) ON OR BEFORE JANUARY 15, 2015, AND THEREAFTER, A DRIVER OR A TRANSPORTATION NETWORK COMPANY ON THE DRIVER'S BEHALF SHALL MAINTAIN A PRIMARY AUTOMOBILE INSURANCE POLICY THAT:

(I) RECOGNIZES THAT THE DRIVER IS A TRANSPORTATION NETWORK COMPANY DRIVER AND COVERS THE DRIVER'S PROVISION OF TRANSPORTATION NETWORK COMPANY SERVICES WHILE THE DRIVER IS LOGGED INTO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK;

(II) MEETS AT LEAST THE MINIMUM COVERAGE OF AT LEAST FIFTY THOUSAND DOLLARS TO ANY ONE PERSON IN ANY ONE ACCIDENT, ONE HUNDRED THOUSAND DOLLARS TO ALL PERSONS IN ANY ONE ACCIDENT, AND FOR PROPERTY DAMAGE ARISING OUT OF THE USE OF THE MOTOR VEHICLE TO A LIMIT, EXCLUSIVE OF INTEREST AND COSTS, OF THIRTY THOUSAND DOLLARS IN ANY ONE ACCIDENT; AND

(III) IS ONE OF THE FOLLOWING:

(A) FULL-TIME COVERAGE SIMILAR TO THE COVERAGE REQUIRED BY COMMISSION RULES PROMULGATED UNDER SECTION 40-10.1-107 (1);

(B) AN INSURANCE RIDER TO, OR ENDORSEMENT OF, THE DRIVER'S PERSONAL AUTOMOBILE INSURANCE POLICY REQUIRED BY THE "MOTOR VEHICLE FINANCIAL RESPONSIBILITY ACT," ARTICLE 7 OF TITLE 42, C.R.S.; OR

(C) A CORPORATE LIABILITY INSURANCE POLICY PURCHASED BY THE TRANSPORTATION NETWORK COMPANY THAT PROVIDES PRIMARY COVERAGE FOR THE PERIOD OF TIME IN WHICH A DRIVER IS LOGGED INTO THE DIGITAL
(c) The Division of Insurance shall conduct a study of whether the levels of coverage provided for in this subsection (3) are appropriate for the risk involved with transportation network company services. In conducting the study, the Division of Insurance shall convene one or more stakeholder meetings to evaluate the choices of coverage set forth in subparagraph (III) of paragraph (b) of this subsection (3). On or before January 15, 2015, the Division of Insurance shall present its findings and any recommendations to the Business, Labor, Economic and Workforce Development Committee in the House of Representatives, the Business, Labor, and Technology Committee in the Senate, the Transportation and Energy Committee in the House of Representatives, and the Transportation Committee in the Senate.

(d) If a transportation network company purchases an insurance policy under this subsection (3), it shall provide documentation to the Commission evidencing that the transportation network company has secured the policy. If the responsibility is placed on a driver to purchase insurance under this subsection (3), the transportation network company shall verify that the driver has purchased an insurance policy under this subsection (3).

(4) A driver's personal automobile insurance policy that complies with part 6 of article 4 of title 10, C.R.S., is sufficient to satisfy the compulsory insurance requirements thereof. An insurance policy required by subsection (2) or subsection (3) of this section:

(a) May be placed with an insurer licensed under title 10, C.R.S., or with a surplus lines insurer authorized under article 5 of title 10, C.R.S.; and

(b) Need not separately satisfy the requirements of part 6 of article 4 of title 10, C.R.S.

(5) Nothing in this section requires a personal automobile insurance policy to provide coverage for the period of time in
WHICH A DRIVER IS LOGGED INTO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK.

(6) If more than one insurance policy provides valid and collectible coverage for a loss arising out of an occurrence involving a motor vehicle operated by a driver, the responsibility for the claim must be divided on a pro rata basis among all of the applicable policies. This equal division of responsibility may only be modified by the written agreement of all of the insurers of the applicable policies and the owners of those policies.

(7) In a claims coverage investigation, a transportation network company shall cooperate with a liability insurer that also insures the driver's transportation network company vehicle, including the provision of relevant dates and times during which an incident occurred that involved the driver while the driver was logged into a transportation network company's digital network.

(8) Nothing in this section modifies or abrogates any otherwise applicable insurance requirements set forth in Title 10, C.R.S.

(9) If a transportation network company's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the transportation network company shall cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle. The Commission shall not assess any fines as a result of a violation of this subsection (9).

40-10.1-605. Operational requirements. (1) The following requirements apply to the provision of services:

(a) A driver shall not provide services unless a transportation network company has matched the driver to a rider through a digital network. A driver shall not solicit or accept the on-demand summoning of a ride, otherwise known as a "street hail".
(b) A TRANSPORTATION NETWORK COMPANY SHALL MAKE AVAILABLE TO PROSPECTIVE RIDERS AND DRIVERS THE METHOD BY WHICH THE TRANSPORTATION NETWORK COMPANY CALCULATES FARES OR THE APPLICABLE RATES BEING CHARGED AND AN OPTION TO RECEIVE AN ESTIMATED FARE.

(c) UPON COMPLETION OF A PREARRANGED RIDE, A TRANSPORTATION NETWORK COMPANY SHALL TRANSMIT TO THE RIDER AN ELECTRONIC RECEIPT, EITHER BY ELECTRONIC MAIL OR VIA TEXT MESSAGE, DOCUMENTING:

(I) THE POINT OF ORIGIN AND DESTINATION OF THE PREARRANGED RIDE;

(II) THE TOTAL DURATION AND DISTANCE OF THE PREARRANGED RIDE;

(III) THE TOTAL FARE PAID, INCLUDING THE BASE FARE AND ANY ADDITIONAL CHARGES INCURRED FOR DISTANCE TRAVELED OR DURATION OF THE PREARRANGED RIDE; AND

(IV) THE DRIVER'S FIRST NAME AND TELEPHONE NUMBER.

(d) BEFORE PERMITTING A PERSON TO ACT AS A DRIVER ON ITS DIGITAL NETWORK, A TRANSPORTATION NETWORK COMPANY SHALL CONFIRM THAT THE PERSON IS AT LEAST TWENTY-ONE YEARS OF AGE AND POSSESSES:

(I) A VALID DRIVER'S LICENSE;

(II) PROOF OF AUTOMOBILE INSURANCE;

(III) PROOF OF A COLORADO VEHICLE REGISTRATION; AND

(IV) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS PART 6 AND PURSUANT TO COMMISSION RULES, PROOF THAT THE PERSON IS MEDICALLY FIT TO DRIVE.

(e) A DRIVER SHALL NOT OFFER OR PROVIDE TRANSPORTATION NETWORK COMPANY SERVICES FOR MORE THAN TWELVE CONSECUTIVE
(f) A transportation network company shall implement an intoxicating substance policy for drivers that disallows any amount of intoxication of the driver while providing services. The transportation network company shall include on its web site and mobile device application software a notice concerning the transportation network company’s intoxicating substance policy.

(g)(I) A transportation network company shall conduct or have a certified mechanic conduct a safety inspection of a prospective driver’s vehicle before it is approved for use as a personal vehicle and shall have periodic inspections of personal vehicles conducted thereafter, at intervals of at least one inspection per year. A safety inspection shall include an inspection of:

(A) Foot brakes;

(B) Emergency brakes;

(C) Steering mechanism;

(D) Windshield;

(E) Rear window and other glass;

(F) Windshield wipers;

(G) Headlights;

(H) Tail lights;

(I) Turn indicator lights;

(J) Stop lights;

(K) Front seat adjustment mechanism;

(L) The opening, closing, and locking capability of the
DOORS;

(M) HORN;

(N) SPEEDOMETER;

(O) BUMPERS;

(P) MUFFLER AND EXHAUST SYSTEM;

(Q) TIRE CONDITIONS, INCLUDING TREAD DEPTH;

(R) INTERIOR AND EXTERIOR REAR-VIEW MIRRORS; AND

(S) SAFETY BELTS.

(II) EFFECTIVE NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS PART 6, THE COMMISSION MAY ALSO CONDUCT INSPECTIONS OF PERSONAL VEHICLES.

(h) A PERSONAL VEHICLE MUST:

(I) HAVE AT LEAST FOUR DOORS; AND

(II) BE DESIGNED TO CARRY NO MORE THAN EIGHT PASSENGERS, INCLUDING THE DRIVER.

(i) A TRANSPORTATION NETWORK COMPANY SHALL MAKE THE FOLLOWING DISCLOSURE TO A PROSPECTIVE DRIVER IN THE PROSPECTIVE DRIVER'S TERMS OF SERVICE:

**WHILE OPERATING ON THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK, YOUR PERSONAL AUTOMOBILE INSURANCE POLICY MIGHT NOT AFFORD LIABILITY COVERAGE, DEPENDING ON THE POLICY'S TERMS.**

(j) (I) A TRANSPORTATION NETWORK COMPANY SHALL MAKE THE FOLLOWING DISCLOSURE TO A PROSPECTIVE DRIVER IN THE PROSPECTIVE DRIVER'S TERMS OF SERVICE:
IF THE VEHICLE THAT YOU PLAN TO USE TO PROVIDE TRANSPORTATION NETWORK COMPANY SERVICES FOR OUR TRANSPORTATION NETWORK COMPANY HAS A LIEN AGAINST IT, YOU MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR TRANSPORTATION SERVICES THAT MAY VIOLATE THE TERMS OF YOUR CONTRACT WITH THE LIENHOLDER.

(II) THE DISCLOSURE SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (j) MUST BE PLACED PROMINENTLY IN THE PROSPECTIVE DRIVER'S WRITTEN TERMS OF SERVICE, AND THE PROSPECTIVE DRIVER MUST ACKNOWLEDGE THE TERMS OF SERVICE ELECTRONICALLY OR BY SIGNATURE.

(k) A TRANSPORTATION NETWORK COMPANY SHALL MAKE AVAILABLE TO A RIDER A CUSTOMER SUPPORT TELEPHONE NUMBER ON ITS DIGITAL NETWORK OR WEB SITE FOR RIDER INQUIRIES.

(l) THE DISCLOSURE REQUIREMENTS SET FORTH IN THIS SUBSECTION (1) TAKE EFFECT ON JULY 1, 2014.

(m) (I) A TRANSPORTATION NETWORK COMPANY SHALL NOT DISCLOSE TO A THIRD PARTY ANY PERSONALLY IDENTIFIABLE INFORMATION CONCERNING A USER OF THE TRANSPORTATION NETWORK COMPANY’S DIGITAL NETWORK UNLESS:

(A) THE TRANSPORTATION NETWORK COMPANY OBTAINS THE USER'S CONSENT TO DISCLOSE PERSONALLY IDENTIFIABLE INFORMATION;

(B) DISCLOSURE IS NECESSARY TO COMPLY WITH A LEGAL OBLIGATION; OR

(C) DISCLOSURE IS NECESSARY TO PROTECT OR DEFEND THE TERMS AND CONDITIONS FOR USE OF THE SERVICE OR TO INVESTIGATE VIOLATIONS OF THE TERMS AND CONDITIONS.

(II) THE LIMITATION ON DISCLOSURE DOES NOT APPLY TO THE DISCLOSURE OF AGGREGATED USER DATA AND OTHER INFORMATION ABOUT THE USER THAT IS NOT PERSONALLY IDENTIFIABLE.
(n) Any taxicab company or shuttle company authorized by the Commission under this article may convert to a transportation network company model or may set up a subsidiary or affiliate transportation network company. In converting to a transportation network company model or setting up a transportation network company subsidiary or affiliate, a taxicab company or shuttle company authorized by the Commission under this article may completely or partially suspend its certificate of public convenience and necessity issued under section 40-10.1-201. During the period of suspension of its certificate of public convenience and necessity, a taxicab company, shuttle company, or a subsidiary or affiliate of a taxicab company or shuttle company is exempt from taxi or shuttle standards under this article, the standards concerning the regulation of rates and charges under Article 3 of this title, and any Commission rules regarding common carriers promulgated under this article or Article 3 of this title.

(o) Each transportation network company shall require that each personal vehicle providing transportation network company services display an exterior marking that identifies the personal vehicle as a vehicle for hire.

(2) A transportation network company or a third party shall retain true and accurate inspection records for at least fourteen months after an inspection was conducted for each personal vehicle used by a driver.

(3) (a) Before a person is permitted to act as a driver through use of a transportation network company’s digital network, the person shall:

(I) Obtain a criminal history record check pursuant to the procedures set forth in section 40-10.1-110 as supplemented by the Commission’s rules promulgated under section 40-10.1-110 or through a privately administered national criminal history record check, including the National Sex Offender Database; and

(II) If a privately administered national criminal history record check is used, provide a copy of the criminal history record check.
(b) A DRIVER SHALL OBTAIN A CRIMINAL HISTORY RECORD CHECK IN ACCORDANCE WITH SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (3) EVERY FIVE YEARS WHILE SERVING AS A DRIVER.

(c) (I) A PERSON WHO HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO DRIVING UNDER THE INFLUENCE OF DRUGS OR ALCOHOL IN THE PREVIOUS SEVEN YEARS BEFORE APPLYING TO BECOME A DRIVER SHALL NOT SERVE AS A DRIVER. IF THE CRIMINAL HISTORY RECORD CHECK REVEALS THAT THE PERSON HAS EVER BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO ANY OF THE FOLLOWING FELONY OFFENSES, THE PERSON SHALL NOT SERVE AS A DRIVER:

(A) AN OFFENSE INVOLVING FRAUD, AS DESCRIBED IN ARTICLE 5 OF TITLE 18, C.R.S.;

(B) AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9), C.R.S.;

(C) AN OFFENSE AGAINST PROPERTY, AS DESCRIBED IN ARTICLE 4 OF TITLE 18, C.R.S.; OR

(D) A CRIME OF VIOLENCE, AS DESCRIBED IN SECTION 18-1.3-406, C.R.S.

(II) A PERSON WHO HAS BEEN CONVICTED OF A COMPARABLE OFFENSE TO THE OFFENSES LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) IN ANOTHER STATE OR IN THE UNITED STATES SHALL NOT SERVE AS A DRIVER.

(III) A TRANSPORTATION NETWORK COMPANY OR A THIRD PARTY SHALL RETAIN TRUE AND ACCURATE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK FOR EACH DRIVER THAT PROVIDES SERVICES FOR THE TRANSPORTATION NETWORK COMPANY FOR AT LEAST FIVE YEARS AFTER THE CRIMINAL HISTORY RECORD CHECK WAS CONDUCTED.

(IV) A PERSON WHO HAS, WITHIN THE IMMEDIATELY PRECEDING FIVE YEARS, BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO A FELONY SHALL NOT SERVE AS A DRIVER.
(4) (a) Before permitting an individual to act as a driver on its digital network, a transportation network company shall obtain and review a driving history research report for the individual.

(b) An individual with the following moving violations shall not serve as a driver:

(I) More than three moving violations in the three-year period preceding the individual’s application to serve as a driver; or

(II) A major moving violation in the three-year period preceding the individual’s application to serve as a driver, whether committed in this state, another state, or the United States, including vehicular eluding, as described in section 18-9-116.5, C.R.S., reckless driving, as described in section 42-4-1401, C.R.S., and driving under restraint, as described in section 42-2-138, C.R.S.

(c) A transportation network company or a third party shall retain true and accurate results of the driving history research report for each driver that provides services for the transportation network company for at least three years.

(5) If any person files a complaint with the commission against a transportation network company or driver, the commission may inspect the transportation network company’s records as reasonably necessary to investigate and resolve the complaint.

(6) (a) A transportation network company shall provide services to the public in a nondiscriminatory manner, regardless of geographic location of the departure point or destination, once the driver and rider have been matched through the digital network; race; ethnicity; gender; sexual orientation, as defined in section 2-4-401 (13.5), C.R.S.; gender identity; or disability that could prevent customers from accessing transportation. A driver shall not refuse to transport a passenger unless:
(I) **THE PASSENGER IS ACTING IN AN UNLAWFUL, DISORDERLY, OR ENDANGERING MANNER;**

(II) **THE PASSENGER IS UNABLE TO CARE FOR HIMSELF OR HERSELF AND IS NOT IN THE CHARGE OF A RESPONSIBLE COMPANION; OR**

(III) **THE DRIVER HAS ALREADY COMMITTED TO PROVIDING A RIDE FOR ANOTHER RIDER.**

(b) **A TRANSPORTATION NETWORK COMPANY SHALL NOT IMPOSE ADDITIONAL CHARGES FOR PROVIDING SERVICES TO PERSONS WITH PHYSICAL OR MENTAL DISABILITIES BECAUSE OF THOSE DISABILITIES.**

(c) **A DRIVER SHALL PERMIT A SERVICE ANIMAL TO ACCOMPANY A RIDER ON A PREARRANGED RIDE.**

(d) **IF A RIDER WITH PHYSICAL OR MENTAL DISABILITIES REQUIRES THE USE OF THE RIDER’S MOBILITY EQUIPMENT, A DRIVER SHALL STORE THE MOBILITY EQUIPMENT IN THE VEHICLE DURING A PREARRANGED RIDE IF THE VEHICLE IS REASONABLY CAPABLE OF STORING THE MOBILITY EQUIPMENT. IF THE DRIVER IS UNABLE TO STORE A RIDER’S MOBILITY EQUIPMENT IN THE DRIVER’S VEHICLE, THE DRIVER SHALL REFER THE RIDER TO ANOTHER DRIVER OR TRANSPORTATION SERVICE PROVIDER WITH A VEHICLE THAT IS EQUIPPED TO ACCOMMODATE THE RIDER’S MOBILITY EQUIPMENT.**

(7) (a) **A TRANSPORTATION NETWORK COMPANY IS NOT LIABLE FOR A DRIVER’S VIOLATION OF SUBSECTION (6) OF THIS SECTION UNLESS THE DRIVER’S VIOLATION HAS BEEN PREVIOUSLY REPORTED TO THE TRANSPORTATION NETWORK COMPANY IN WRITING, AND THE TRANSPORTATION NETWORK COMPANY HAS FAILED TO REASONABLY ADDRESS THE ALLEGED VIOLATION. THE COMMISSION SHALL AFFORD A TRANSPORTATION NETWORK COMPANY THE SAME DUE PROCESS RIGHTS AFFORDED TRANSPORTATION PROVIDERS IN DEFENDING AGAINST CIVIL PENALTIES ASSESSED BY THE COMMISSION.**

(b) **THE COMMISSION MAY ASSESS A CIVIL PENALTY UP TO FIVE HUNDRED FIFTY DOLLARS UNDER THIS SUBSECTION (7).**

(8) **WITHIN TEN DAYS OF RECEIVING A COMPLAINT ABOUT A DRIVER’S ALLEGED VIOLATION OF SUBSECTION (6) OF THIS SECTION, THE**
COMMISSION SHALL REPORT THE COMPLAINT TO THE TRANSPORTATION NETWORK COMPANY FOR WHICH THE DRIVER PROVIDES SERVICES.

(9) A DRIVER SHALL IMMEDIATELY REPORT TO THE TRANSPORTATION NETWORK COMPANY ANY REFUSAL TO TRANSPORT A PASSENGER PURSUANT TO PARAGRAPH (a) OF SUBSECTION (6) OF THIS SECTION, AND THE TRANSPORTATION NETWORK COMPANY SHALL ANNUALLY REPORT ALL SUCH REFUSALS TO THE COMMISSION IN A FORM AND MANNER DETERMINED BY THE COMMISSION.

40-10.1-606. Permit required for transportation network companies - penalty for violation - rules. (1) A PERSON SHALL NOT OPERATE A TRANSPORTATION NETWORK COMPANY IN COLORADO WITHOUT FIRST HAVING OBTAINED A PERMIT FROM THE COMMISSION.

(2) THE COMMISSION SHALL ISSUE A PERMIT TO EACH TRANSPORTATION NETWORK COMPANY THAT MEETS THE REQUIREMENTS OF THIS PART 6 AND PAYS AN ANNUAL PERMIT FEE OF ONE HUNDRED ELEVEN THOUSAND TWO HUNDRED FIFTY DOLLARS TO THE COMMISSION. THE COMMISSION MAY ADJUST THE ANNUAL PERMIT FEE BY RULE TO COVER THE COMMISSION'S DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS PART 6.

(3) THE COMMISSION SHALL DETERMINE THE FORM AND MANNER OF APPLICATION FOR A TRANSPORTATION NETWORK COMPANY PERMIT.

(4) THE COMMISSION MAY TAKE ACTION AGAINST A TRANSPORTATION NETWORK COMPANY AS SET FORTH IN SECTION 40-10.1-112, INCLUDING ISSUING AN ORDER TO CEASE AND DESIST AND SUSPENDING, REVOKING, ALTERING, OR AMENDING A PERMIT ISSUED TO THE TRANSPORTATION NETWORK COMPANY.

(5) (a) FOR A VIOLATION OF THIS PART 6 OR A FAILURE TO COMPLY WITH A COMMISSION ORDER, DECISION, OR RULE ISSUED UNDER THIS PART 6, A TRANSPORTATION NETWORK COMPANY IS SUBJECT TO THE COMMISSION'S AUTHORITY UNDER SECTIONS 40-7-101, 40-7-112, 40-7-113, 40-7-115, AND 40-7-116.

(b) THE COMMISSION SHALL NOT ASSESS A PENALTY AGAINST A DRIVER.
(6) The commission may deny an application under this part 6 or refuse to renew the permit of a transportation network company based on a determination that the transportation network company has not satisfied a civil penalty arising out of an administrative or enforcement action brought by the commission.

40-10.1-607. Fees - transportation network company fund - creation. The commission shall transmit all fees collected pursuant to this part 6 to the state treasurer, who shall credit the fees to the transportation network company fund, which is hereby created in the state treasury. The moneys in the fund are continuously appropriated to the commission for the purposes set forth in this part 6. All interest earned from the investment of moneys in the fund is credited to the fund. Any moneys not expended at the end of the fiscal year remain in the fund and do not revert to the general fund or any other fund.

40-10.1-608. Rules. (1) The commission may promulgate rules consistent with this part 6, including rules concerning administration, fees, and safety requirements.

(2) The commission may promulgate rules requiring a transportation network company to maintain and file with the commission evidence of financial responsibility and proof of the continued validity of the insurance policy, surety bond, or self-insurance, but shall not require a transportation network company to file a copy of the insurance policy.

SECTION 7. In Colorado Revised Statutes, add 8-41-211 as follows:

8-41-211. Transportation network company drivers - rules. Upon the effective date of part 6 of article 10.1 of title 40, C.R.S., the director, upon consideration of existing Colorado statutory and case law, may by rule determine whether or not transportation network companies have an obligation under existing Colorado law to provide or offer for purchase workers' compensation insurance coverage to transportation network company drivers.
SECTION 8. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the transportation network company fund created in section 40-10.1-607, Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for the fiscal year beginning July 1, 2014, the sum of $179,777 and 2.5 FTE, or so much thereof as may be necessary, for allocation to the public utilities commission for the administrative costs related to the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2014, the sum of $9,108 and 0.1 FTE, or so much thereof as may be necessary, for the provision of legal services for the public utilities commission related to the implementation of this act. Said sum is from reappropriated funds received from the department of regulatory agencies out of the appropriation made in subsection (1) of this section.

SECTION 9. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Morgan Carroll
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED________________________________________

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO
Substitute Senate Bill No. 209

Public Act No. 14-53

AN ACT PROHIBITING UNSOLICITED COMMERCIAL TEXT MESSAGES AND INCREASING PENALTIES FOR VIOLATIONS OF THE DO NOT CALL REGISTRY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 42-288a of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2014):

(a) As used in this section and section 2 of this act:

(1) "Commissioner" means the Commissioner of Consumer Protection;

(2) "Consumer" means any individual who is a resident of this state and a prospective recipient of consumer goods or services;

(3) "Consumer goods or services" means any article or service that is purchased, leased, exchanged or received primarily for personal, family or household purposes, and includes, but is not limited to, stocks, bonds, mutual funds, annuities and other financial products;

(4) "Department" means the Department of Consumer Protection;

(5) "Doing business in this state" means conducting telephonic sales calls (A) from a location in this state, or (B) from a location outside of
this state to consumers residing in this state;

(6) "Prior express written consent" has the meaning provided in 47 CFR 64.1200, as amended from time to time;

[(6)] (7) "Marketing or sales solicitation" means the initiation of a telephone call or message, including, but not limited to, a text or media message, to encourage the purchase or rental of, or investment in, property, goods or services, that is transmitted to any consumer, but does not include a telephone call or message, including, but not limited to, a text or media message (A) to any consumer with [that] such consumer's prior express written [or verbal invitation or permission] consent, (B) by a tax-exempt nonprofit organization, or (C) to a consumer in response to a visit made by such consumer to an establishment selling, leasing or exchanging consumer goods or services at a fixed location;

[(7)] (8) "Telephonic sales call" means a telephone call made by a telephone solicitor, or a text or media message sent by or on behalf of a telephone solicitor, to a consumer for the purpose of (A) engaging in a marketing or sales solicitation, (B) soliciting an extension of credit for consumer goods or services, or (C) obtaining information that will or may be used for marketing or sales solicitation or exchange of or extension of credit for consumer goods or services;

[(8)] (9) "Telephone solicitor" means any individual, association, corporation, partnership, limited partnership, limited liability company or other business entity, or a subsidiary or affiliate thereof, doing business in this state that makes or causes to be made a telephonic sales call, including, but not limited to, sending or causing to be sent a text or media message to a consumer's mobile telephone or mobile electronic device;

(10) "Text or media message" means a message that contains
written, audio, video or photographic content and is sent electronically to a mobile telephone or mobile electronic device telephone number, but does not include electronic mail sent to an electronic mail address;

[(9)] (11) "Unsolicited telephonic sales call" means any telephonic sales call other than a [telephonic sales call made: (A) [In response to an express written or verbal request] Pursuant to the prior express written consent of the consumer who is called or sent a text or media message; (B) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of the telephonic sales call; or (C) to an existing customer, unless such customer has stated to the telephone solicitor that such customer no longer wishes to receive the telephonic sales calls of such telephone solicitor; and

[(10)] (12) "Caller identification service or device" means any telephone service or device which permits a consumer to see the telephone number of incoming telephone calls or text or media messages.

(b) The department shall establish and maintain a "no sales solicitation calls" listing of consumers who do not wish to receive unsolicited telephonic sales calls. The department may contract with a private vendor to establish and maintain such listing, provided (1) the private vendor has maintained national "no sales solicitation calls" listings for more than two years, and (2) the contract requires the vendor to provide the "no sales solicitation calls" listing in a printed hard copy format and in any other format offered at a cost that does not exceed the production cost of the format offered. The department shall provide notice to consumers of the establishment of a "no sales solicitation calls" listing. Any consumer who wishes to be included on such listing shall notify the department by calling a toll-free number provided by the department, or in any other such manner and at such times as the commissioner may prescribe. A consumer on such listing
(c) No telephone solicitor may make or cause to be made any unsolicited telephonic sales call to any consumer (1) if the consumer's name and telephone number or numbers appear on the then current quarterly "no sales solicitation calls" listing made available by the department under subsection (b) of this section, unless (A) such call was made by a telephone solicitor that first began doing business in this state on or after January 1, 2000, (B) a period of less than one year has passed since such telephone solicitor first began doing business in this state, and (C) the consumer to whom such call was made had not on a previous occasion stated to such telephone solicitor that such consumer no longer wishes to receive the telephonic sales calls of such telephone solicitor, (2) for telephone calls, to be received between the hours of nine o'clock p.m. and nine o'clock a.m., local time, at the consumer's location or, for text or media messages, to be received on the consumer's mobile telephone or mobile electronic device at any time, (3) in the form of electronically transmitted facsimiles, or (4) by use of a recorded message device.

(d) No telephone solicitor may intentionally cause to be installed or use any blocking device or service to circumvent a consumer's use of a caller identification service or device. No telephone solicitor may intentionally transmit inaccurate or misleading caller identification information.

(e) (1) Any person who obtains the name, residential address or telephone number of any consumer from published telephone directories or from any other source and republishes or compiles such information, electronically or otherwise, and sells or offers to sell such publication or compilation to telephone solicitors for marketing or
Substitute Senate Bill No. 209

sales solicitation purposes, shall exclude from any such publication or compilation, and from the database used to prepare such publication or compilation, the name, address and telephone number or numbers of any consumer if the consumer's name and telephone number or numbers appear in the then current quarterly "no sales solicitation calls" listing made available by the department under subsection (b) of this section.

(2) This subsection does not apply to (A) any telephone company, as defined in section 16-1, for the sole purpose of compiling, publishing or distributing telephone directories or causing the compilation, publication or distribution of telephone directories or providing directory assistance, and (B) any person, for the sole purpose of compiling, publishing or distributing telephone directories for such telephone company pursuant to an agreement or other arrangement with such telephone company.

(f) The commissioner may adopt regulations, [pursuant to] in accordance with chapter 54, to carry out the provisions of this section. Such regulations may include, but shall not be limited to, provisions governing the availability and distribution of the listing established under subsection (b) of this section and notice requirements for consumers wishing to be included on the listing established under subsection (b) of this section.

(g) A violation of any of the provisions of this section shall be deemed an unfair or deceptive trade practice under subsection (a) of section 42-110b, except that no telephone solicitor may be liable under this section for a call made in violation of subdivision (1) of subsection (c) of this section if such telephone solicitor demonstrates that: (1) Such telephone solicitor established and implemented written procedures and trained its employees to follow such procedures to comply with subdivision (1) of subsection (c) of this section; (2) such telephone solicitor deleted from its call list any listing of a consumer on the then
current quarterly "no sales solicitation calls" listing maintained pursuant to subsection (b) of this section; and (3) such call was made inadvertently.

(h) No telephone solicitor may make or cause to be made an unsolicited, automatically dialed, recorded telephonic sales call to a consumer without such consumer's prior express written consent.

(i) In addition to the requirements of subsections (b) to (h), inclusive, of this section, if a consumer's mobile telephone or mobile electronic device telephone number does not appear on the then current quarterly "no sales solicitation calls" listing made available by the department under subsection (b) of this section, no telephone solicitor may send or cause to be sent a text or media message to such number for the purpose of marketing or sales solicitation of consumer goods, unless such telephone solicitor has received the prior express written consent of the consumer to receive such text or media message.

(j) Notwithstanding the provisions of subsections (c) and (i) of this section, a telecommunications company, as defined in section 16-1, may send a text or media message to an existing customer, provided:
(1) Such telecommunications company does not charge the customer a fee for such text or media message, and (2) such text or media message is primarily in connection with (A) an existing debt, payment of which has not been completed at the time the text or media message is sent, (B) an existing contract between the telecommunications company and the customer, (C) a wireless emergency alert authorized by federal law, or (D) a prior request for customer service that was initiated by the customer.

[(h)] (k) In addition to any penalty imposed under chapter 735a, any telephone solicitor, who is liable under the provisions of [subsection (g)] subsections (g) to (i), inclusive, of this section, shall be fined not more than [eleven] twenty thousand dollars for each violation.
Substitute Senate Bill No. 209

Sec. 2. (NEW) (Effective October 1, 2014) Each telephone and telecommunications company, as defined in section 16-1 of the general statutes, that issues an account statement to a consumer with respect to service for a telephone, mobile telephone or mobile electronic device shall, not less than two times per year, include on or with such statement a conspicuous notice, informing the consumer with respect to: (1) The prohibitions placed on telephone solicitors pursuant to section 42-288a of the general statutes, as amended by this act, (2) how to place the consumer's telephone number, mobile telephone number or mobile electronic device telephone number on the "no sales solicitation calls" listing established pursuant to subsection (b) of section 42-288a of the general statutes, as amended by this act, and (3) how to obtain a "no sales solicitation complaint" form on the Department of Consumer Protection's Internet web site.

Approved May 28, 2014
A BILL TO BE ENTITLED
AN ACT

To amend Chapter 1 of Title 35 and Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to general provisions for law enforcement officers and agencies and when public disclosure is not required, respectively, so as to prohibit the disclosure of arrest booking photographs under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general provisions for law enforcement officers and agencies, is amended by adding a new Code section to read as follows:

"35-1-18. (a) As used in this Code section, the term 'booking photograph' means a photograph or image of an individual taken by an arresting law enforcement agency for the purpose of identification or taken when such individual was processed into a jail.

(b) Except as provided in Code Section 50-18-77 and booking photographs required for publication as set forth in Titles 16 and 40, for the State Sexual Offender Registry, and for use by law enforcement agencies for administrative purposes, an arresting law enforcement agency or agent thereof shall not post booking photographs to or on a website.

(c) An arresting law enforcement agency shall not provide or make available a copy of a booking photograph in any format to a person requesting such photograph if:

(1) Such booking photograph may be placed in a publication or posted to a website or transferred to a person to be placed in a publication or posted to a website; and

(2) Removal or deletion of such booking photograph from such publication or website requires the payment of a fee or other consideration.

(d) When a person requests a booking photograph, he or she shall submit a statement affirming that the use of such photograph is in compliance with subsection (c) of this Code section.
section. Any person who knowingly makes a false statement in requesting a booking photograph shall be guilty of a violation of Code Section 16-10-20."

SECTION 2.

Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public disclosure is not required, is amended by revising paragraph (4) of subsection (a) as follows:

"(4) Records of law enforcement, prosecution, or regulatory agencies in any pending investigation or prosecution of criminal or unlawful activity, other than initial police arrest reports and initial incident reports; provided, however, that an investigation or prosecution shall no longer be deemed to be pending when all direct litigation involving such investigation and prosecution has become final or otherwise terminated; and provided, further, that this paragraph shall not apply to records in the possession of an agency that is the subject of the pending investigation or prosecution; and provided, further, that the release of booking photographs shall only be permissible in accordance with Code Section 35-1-18;"

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.
House Bill 150 (AS PASSED HOUSE AND SENATE)
By: Representatives Bruce of the 61st, Pruett of the 149th, Roberts of the 155th, Burns of the 159th, Lindsey of the 54th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to the Fair Business Practices Act, so as to change provisions relating to prohibited telemarketing and Internet activities; to provide for definitions; to prohibit certain persons from collecting a fee for removing certain individuals' arresting booking photographs from a website; to change provisions relating to acts exempt from the part; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to the Fair Business Practices Act, is amended in Code Section 10-1-393.5, relating to prohibited telemarketing, Internet activities, or home repair, by adding a new subsection to read as follows:

"(b.1)(1) As used in this subsection, the term:

(A) 'Photograph' means a photograph of a subject individual that was taken in this state by an arresting law enforcement agency.

(B) 'Subject individual' means an individual who was arrested and had his or her photograph taken and:

(i) Access to his or her case or charges was restricted pursuant to Code Section 35-3-37;

(ii) Prior to indictment, accusation, or other charging instrument, his or her case was never referred for further prosecution to the proper prosecuting attorney by the arresting law enforcement agency and the offense against such individual was closed by the arresting law enforcement agency;

(iii) Prior to indictment, accusation, or other charging instrument, the statute of limitations expired;"
(iv) Prior to indictment, accusation, or other charging instrument, his or her case was referred to the prosecuting attorney but was later dismissed;

(v) Prior to indictment, accusation, or other charging instrument, the grand jury returned two no bills;

(vi) After indictment or accusation, all charges were dismissed or nolle prossed;

(vii) After indictment or accusation, the individual pleaded guilty to or was found guilty of possession of a narcotic drug, marijuana, or stimulant, depressant, or hallucinogenic drug and was sentenced in accordance with the provisions of Code Section 16-13-2, and the individual successfully completed the terms and conditions of his or her probation; or

(viii) The individual was acquitted of all of the charges by a judge or jury.

(2) Any person who is engaged in any activity involving or using a computer or computer network who publishes on such person's publicly available website a subject individual's arrest booking photograph for purposes of commerce shall be deemed to be transacting business in this state. Within 30 days of the sending of a written request by a subject individual, including his or her name, date of birth, date of arrest, and the name of the arresting law enforcement agency, such person shall, without fee or compensation, remove from such person's website the subject individual's arrest booking photograph. Such written request shall be transmitted via certified mail, return receipt requested, or statutory overnight delivery, to the registered agent, principal place of business, or primary residence of the person who published the website. Without otherwise limiting the definition of unfair and deceptive acts or practices under this part, a failure to comply with this paragraph shall be unlawful.

SECTION 2.

Said part is further amended by revising paragraph (2) of Code Section 10-1-396, relating to acts exempt from part, as follows:

"(2) Acts done by the publisher, owner, agent, or employee of a newspaper, periodical, or radio station or network, or television station or network in the publication or dissemination in print or electronically of:

(A) News or commentary; or

(B) An advertisement of or for another person, when the publisher, owner, agent, or employee did not have actual knowledge of the false, misleading, or deceptive character of the advertisement, did not prepare the advertisement, or did not have a direct financial interest in the sale or distribution of the advertised product or service."
SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.
Indicates Matter Stricken
Indicates New Matter

COMMITTEE AMENDMENT AMENDED AND ADOPTED
AND AMENDED
May 13, 2013

H. 3554

Introduced by Reps. Cole, Forrester, G.M. Smith, Stavrinakis, Herbkersman and Merrill

S. Printed 5/13/13--S. [SEC 5/14/13 2:33 PM]
Read the first time March 21, 2013.

[3554-1]
A BILL

TO AMEND SECTION 61-4-1515, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SAMPLES AND SALES OF BEER AT BREWERIES, SO AS TO SPECIFY THAT FOURTEEN PERCENT ALCOHOL BY WEIGHT IS THE MAXIMUM THAT MAY BE OFFERED FOR ON-PREMISES CONSUMPTION, TO ALLOW FOR THE SALE OF SIXTY-FOUR OUNCES OF BEER TO A CONSUMER EVERY TWENTY-FOUR HOURS, TO PROVIDE THE BEER MUST BE SOLD AT THE APPROXIMATE RETAIL PRICE, TO PROVIDE THAT APPROPRIATE TAXES MUST BE REMITTED, AND TO CLARIFY THAT A CERTAIN PROVISION APPLIES TO OFF-PREMISES CONSUMPTION.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 61-4-1515 of the 1976 Code is amended to read:

“Section 61-4-1515. (A) Notwithstanding another provision of law, a brewery licensed in this State is authorized to offer samples of beer to consumers brewed in this State on its licensed premises, with or without cost, to consumers under the following conditions:

(1) sales to or tastings samplings by consumers must be held in conjunction with a tour by the consumer of the licensed premises and the entire brewing process utilized at the licensed premises;
(2) A sample sales or samplings shall not be offered or made to, or allowed to be offered, made to, or consumed by an intoxicated person or a person who is under the age of twenty-one; and

(3) A sample shall be no more than two ounces per brand of beer with over eight percent alcohol by weight and no more than four ounces of beer with under eight percent alcohol by weight brewed at the licensed premises; and

(a) no more than a total of forty-eight ounces of beer brewed at the licensed premises, including amounts of samples offered and consumed with or without cost, shall be sold to a consumer for on-premises consumption within a twenty-four hour period; and

(b) of that forty-eight ounces of beer available to be sold to a consumer within a twenty-four hour period, no more than sixteen ounces of beer with an alcoholic weight of above eight percent, including any samples offered and consumed with or without cost, shall be sold to a consumer for on-premises consumption within a twenty-four hour period;

(4) No more than four brands of beer brewed at the licensed premises may be sampled by a consumer in a twenty-four hour period; a brewery must develop and use a system to monitor the amounts and types of beer sampled or sold to a consumer for on-premises consumption;

(5) A brewery must sell the beer at the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the licensed premises are located;

(6) A brewery must remit appropriate taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for excise taxes assessed by the department. A brewery also must remit appropriate sales and use taxes and local hospitality taxes;

(7) A brewery must post information that states the alcoholic content by weight of the various types of beer available in the brewery and the penalties for convictions for: (1) driving under the influence; (2) unlawful transport of an alcoholic container; and (3) unlawful transfer of alcohol to minors, and the information shall be in signage that must be posted at each entrance, each exit, and in places in a brewery seen during a tour;

(8) A brewery must provide DAODAS approved alcohol enforcement training for the employees who serve beer on the licensed premises to consumers for on-premises consumption, so as to prevent and prohibit unlawful sales, transfer, transport or
consumption of beer by persons who are under the age of twenty-one or who are intoxicated; and

(9) a brewery must maintain liability insurance in the amount of at least one million dollars for the biennial period for which it is licensed. Within ten days of receiving its biennial license, a brewery must send proof of this insurance to the State Division of Law Enforcement and to the Department of Revenue, where the proof of insurance information shall be retained with the department’s alcohol beverage licensing section.

(B) A brewery located in this State is authorized to sell beer on its licensed premises for off-premises consumption provided that the sealed beer was brewed on the licensed premises with an alcohol content of fourteen percent by weight or less, subject to the following restrictions conditions:

(1) the maximum amount of beer that may be sold to an individual per day for off-premises consumption shall be equivalent to two hundred eighty-eight ounces in total;

(2) the beer only shall be sold in conjunction with a tour by the consumer of the licensed premises and the entire brewing process utilized at the licensed premises;

(3) the beer sold is for personal use only and cannot be resold;

(4) the beer cannot be sold to anyone holding a retail beer and wine license for the purpose of resale in their establishment;

(5) the brewery must sell the beer at the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the licensed premises are located;

and

(6) the brewery must remit taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for taxes assessed by Section 12-21-1020 and Section 12-21-1030. The brewery also must remit appropriate sales and use taxes and local hospitality taxes.

(C) In addition to other applicable fines or penalties, a person licensed as a brewery in this State who violates the provisions of this section must be assessed a fine of one five hundred dollars for each a first violation in addition to other applicable fines and penalties. For a second violation that occurs within three years of the first violation, a person must be assessed an additional five hundred dollars. For subsequent violations within a three-year period, the department must suspend the brewery license for a period of not less than thirty days. The revenue from the one hundred dollar fine fines established in this section must be directed to the Department of Revenue State Law Enforcement
Division for supplementing funds required for the department’s activities concerning licensure and regulation of alcohol the regulation and enforcement of this section.”

SECTION 2. Section 61-4-960(A) of the 1976 Code is amended to read:

“Section 61-4-960. (A) Notwithstanding another provision of law or regulation, the holder of a retail permit authorizing the sale of beer for off-premises consumption whose primary product is beer or wine may conduct, in accordance with department rulings or regulations, not more than twenty-four beer tastings at any one retail location in a calendar quarter, provided that:

1. at least ten days before the tasting, a notice detailing the specific date and hours of the tasting must be sent by first class mail or by electronic mail to the State Law Enforcement Division;
2. the tastings must be conducted by the retailer or an agent or independent contractor of the retailer and may not be conducted by a wholesaler or manufacturer or an employee, agent, or independent contractor of a wholesaler or manufacturer. Nothing in this subsection prohibits a manufacturer or employee, agent, or independent contractor of a manufacturer from attending a tasting to provide information and offer educational material on the products to be sampled. For purposes of this subsection, a wholesaler is not considered an employee, agent, or independent contractor of a manufacturer;
3. the products must be supplied by the retailer and may not be donated or otherwise supplied at no or reduced cost by the manufacturer or wholesaler;
4. a sample may not be offered from more than eight products at any one tasting;
5. no more than one container of each of the products to be sampled may be open at any time. Open containers must be visible at all times and must be removed at the conclusion of a tasting;
6. the tasting must be held in a designated tasting area of the retail store;
7. samples must be no more than two ounces for each product sampled as defined in Section 61-4-10(1);
8. samples must be no more than one ounce for each product sampled as defined in Section 61-4-10(2), provided that no more than two of the total eight samples may contain more than ten percent of alcohol by weight;
(9) a person shall not be served more than one sample of each product;
(10) a sample shall not be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of twenty-one years. A person tasting a sample may not be allowed to loiter on the store premises;
(11) a sampling may not be offered for more than four hours;
(12) the tasting may not be held in conjunction with a wine tasting pursuant to Section 61-4-737;
(13) a retailer, pursuant to this section, may not offer more than one sampling per day; and
(14) the tasting may not be held in conjunction with a tasting in a retail alcoholic liquor store, pursuant to Section 61-6-1035, that is adjacent to and licensed in the same name of the retail permit authorizing the sale of beer.”

SECTION 3. (A) By no later than March 15, 2016, a report, compiled jointly by the Department of Revenue and the State Law Enforcement Division, shall be delivered to the chairs of the Senate Judiciary Committee, the Senate Finance Committee, the House Judiciary Committee, and the House Ways and Means Committee, and reported in the Senate and House Journals, which contains the following information:

(1) a list of civil and criminal violations and dispositions of those violations related to the provisions of Section 61-4-1515, including, but not limited to, sales or transfers of beer to minors or intoxicated persons, suspensions of brewery licenses, unlawful transportation of beer, and offenses of driving under the influence, if known, for the period of time from the enactment of these provisions to February 1, 2016;
(2) a total of excise and sales taxes paid by the breweries to the Department of Revenue for the period of time from the enactment of these provisions to February 1, 2016;
(3) a total of all fines and penalties paid by or assessed against persons for violations of Section 61-4-1515 for the period of time from the enactment of these provisions to February 1, 2016;
(4) a monthly total of the numbers of persons touring each of the breweries licensed in this State for the period of time from two months after the enactment of these provisions to February 1, 2016, and each brewery shall be responsible for providing the Department of Revenue with this information electronically on a monthly basis during the above-described time period; and
(5) The Department of Revenue shall furnish a list of all licensed breweries upon request by the State Law Enforcement Division or local law enforcement agencies.

(B) The purpose of this report is to enable the General Assembly to consider the information provided by the report to determine if state laws should be amended and additional revenue for regulation and enforcement of Section 61-4-1515 should be appropriated.

SECTION 4. This act shall take effect upon approval of the Governor, except that, for a brewery licensed in the State at the time this act becomes effective, the requirements for proof of liability insurance shall apply immediately, and a licensed brewery must provide the required documentation within sixty days of the effective date of this act.

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An Act

HOUSE BILL 14-1353

BY REPRESENTATIVE(S) Gardner, Buckner, Fields, Kagan, Labuda, Schafer;
also SENATOR(S) Johnston.

CONCERNING POWERS OF APPOINTMENT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add article 2.5 to title 15 as follows:

ARTICLE 2.5
Uniform Powers of Appointment Act

PART 1
GENERAL PROVISIONS

15-2.5-101. Short title. This article may be cited as the "Colorado Uniform Powers of Appointment Act".

15-2.5-102. Definitions. In this article:

(1) "Appointee" means a person to whom a powerholder
MAKES AN APPOINTMENT OF APPOINTEIVE PROPERTY.

(2) "APPOINTEIVE PROPERTY" MEANS PROPERTY OR PROPERTY INTEREST SUBJECT TO A POWER OF APPOINTMENT.

(3) "BLANKET-EXERCISE CLAUSE" MEANS A CLAUSE IN AN INSTRUMENT, WHICH CLAUSE EXERCISES A POWER OF APPOINTMENT AND IS NOT A SPECIFIC-EXERCISE CLAUSE. THE TERM INCLUDES A CLAUSE THAT:

(a) EXPRESSLY USES THE WORDS "ANY POWER" IN EXERCISING ANY POWER OF APPOINTMENT THE POWERHOLDER HAS;

(b) EXPRESSLY USES THE WORDS "ANY PROPERTY" IN APPOINTING ANY PROPERTY OVER WHICH THE POWERHOLDER HAS A POWER OF APPOINTMENT; OR

(c) DISPOSES OF ALL PROPERTY SUBJECT TO DISPOSITION BY THE POWERHOLDER.

(4) "DONOR" MEANS A PERSON WHO CREATES A POWER OF APPOINTMENT.

(5) "EXCLUSIONARY POWER OF APPOINTMENT" MEANS A POWER OF APPOINTMENT EXERCISABLE IN FAVOR OF ANY ONE OR MORE OF THE PERMISSIBLE APPOINTEES TO THE EXCLUSION OF THE OTHER PERMISSIBLE APPOINTEES.

(6) "GENERAL POWER OF APPOINTMENT" MEANS A POWER OF APPOINTMENT EXERCISABLE IN FAVOR OF THE POWERHOLDER, THE POWERHOLDER'S ESTATE, A CREDITOR OF THE POWERHOLDER, OR A CREDITOR OF THE POWERHOLDER'S ESTATE.

(7) "GIFT-IN-DEFAULT CLAUSE" MEANS A CLAUSE IDENTIFYING A TAKER IN DEFAULT OF APPOINTMENT.

(8) "IMPERMISSIBLE APPOINTEE" MEANS A PERSON WHO IS NOT A PERMISSIBLE APPOINTEE.

(9) "INSTRUMENT" MEANS A RECORD.
(10) "Nongeneral power of appointment" means a power of appointment that is not a general power of appointment.

(11) "Permissible appointee" means a person in whose favor a powerholder may exercise a power of appointment.

(12) "Person" means an individual; estate; trust; business or nonprofit entity; public corporation; government or governmental subdivision, agency, or instrumentality; or other legal entity.

(13) "Powerholder" means a person in whom a donor creates a power of appointment.

(14) "Power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. The term does not include a power of attorney.

(15) "Presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at the relevant time. The term:

(a) includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified time only after:

(I) the occurrence of the specified event;

(II) the satisfaction of the ascertainable standard; or

(III) the passage of the specified time; and

(b) does not include a power exercisable only at the powerholder's death.

(16) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other
(17) "Specific-exercise clause" means a clause in an instrument, which clause specifically refers to and exercises a particular power of appointment.

(18) "Taker in default of appointment" means a person who takes all or part of the appointive property to the extent the powerholder does not effectively exercise the power of appointment.

(19) "Terms of the instrument" means the manifestation of the intent of the maker of the instrument regarding the instrument's provisions as expressed in the instrument or as may be established by other evidence that would be admissible in a legal proceeding.

15-2.5-103. Governing law. (1) Unless the terms of the instrument creating a power of appointment manifest a contrary intent:

(a) The creation, revocation, or amendment of the power is governed by the law of the donor's domicile at the relevant time; and

(b) The exercise, release, or disclaimer of the power, or the revocation or amendment of the exercise, release, or disclaimer of the power, is governed by the law of the powerholder's domicile at the relevant time.

15-2.5-104. Supplementation by common law and principles of equity. Unless displaced by the particular provisions of this article, the principles of law and equity supplement its provisions.

PART 2
CREATION, REVOCATION, AND AMENDMENT OF POWER OF APPOINTMENT

15-2.5-201. Creation of power of appointment. (1) A power of appointment is created only if:
(a) **The instrument creating the power:**

(I) **Is valid under applicable law; and**

(II) **Except as otherwise provided in subsection (b) of this section, transfers the appointive property; and**

(b) **The terms of the instrument creating the power manifest the donor's intent to create in a powerholder a power of appointment over the appointive property exercisable in favor of a permissible appointee.**

(2) **Subparagraph (II) of paragraph (a) of subsection (1) of this section does not apply to the creation of a power of appointment by the exercise of a power of appointment.**

(3) **A power of appointment may not be created in a deceased individual.**

(4) **Subject to an applicable rule against perpetuities, a power of appointment may be created in an unborn or unascertained powerholder.**

**15-2.5-202. Nontransferability.** A powerholder may not transfer a power of appointment. If a powerholder dies without exercising or releasing a power, the power lapses.

**15-2.5-203. Presumption of unlimited authority.** (1) **Subject to section 15-2.5-205, and unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is:**

(a) **Presently exercisable;**

(b) **Exclusionary; and**

(c) **Except as otherwise provided in section 15-2.5-204, general.**
15-2.5-204. Exception to presumption of unlimited authority. (1) Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is nongeneral if:

(a) The power is exercisable only at the powerholder's death; and

(b) The permissible appointees of the power are a defined and limited class that does not include the powerholder's estate, the powerholder's creditors, or the creditors of the powerholder's estate.

15-2.5-205. Rules of classification - definitions. (1) In this section, "adverse party" means a person with a substantial beneficial interest in property, which interest would be affected adversely by a powerholder's exercise or nonexercise of a power of appointment in favor of the powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

(2) If a powerholder may exercise a power of appointment only with the consent or joinder of an adverse party, the power is nongeneral.

(3) If the permissible appointees of a power of appointment are not defined and limited, the power is exclusionary.

15-2.5-206. Power of the donor to revoke or amend. (1) A donor may revoke or amend a power of appointment only to the extent that:

(a) The instrument creating the power is revocable by the donor; or

(b) The donor reserves a power of revocation or amendment in the instrument creating the power of appointment.
15-2.5-301. Requisites for exercise of power of appointment. (1) A POWER OF APPOINTMENT MAY BE EXERCISED ONLY:

(a) IF THE INSTRUMENT EXERCISING THE POWER IS VALID UNDER APPLICABLE LAW;

(b) IF THE TERMS OF THE INSTRUMENT EXERCISING THE POWER:

(I) MANIFEST THE POWERHOLDER'S INTENT TO EXERCISE THE POWER; AND

(II) SUBJECT TO SECTION 15-2.5-304, SATISFY THE REQUIREMENTS OF EXERCISE, IF ANY, IMPOSED BY THE DONOR; AND

(c) TO THE EXTENT THE APPOINTMENT IS A PERMISSIBLE EXERCISE OF THE POWER.

15-2.5-302. Intent to exercise - determining intent from residuary clause. (1) IN THIS SECTION:

(a) "RESIDUARY CLAUSE" DOES NOT INCLUDE A RESIDUARY CLAUSE CONTAINING A BLANKET-EXERCISE CLAUSE OR A SPECIFIC-EXERCISE CLAUSE.

(b) "WILL" INCLUDES A CODICIL AND A TESTAMENTARY INSTRUMENT THAT REVISES ANOTHER WILL.

(2) A RESIDUARY CLAUSE IN A POWERHOLDER'S WILL, OR A COMPARABLE CLAUSE IN THE POWERHOLDER'S REVOCABLE TRUST, MANIFESTS THE POWERHOLDER'S INTENT TO EXERCISE A POWER OF APPOINTMENT ONLY IF:

(a) THE TERMS OF THE INSTRUMENT CONTAINING THE RESIDUARY CLAUSE DO NOT MANIFEST A CONTRARY INTENT;

(b) THE POWER IS A GENERAL POWER EXERCISABLE IN FAVOR OF THE POWERHOLDER'S ESTATE;

(c) THERE IS NO GIFT-IN-DEFAULT CLAUSE OR THE CLAUSE IS INEFFECTIVE; AND

PAGE 7-HOUSE BILL 14-1353
THE POWERHOLDER DID NOT RELEASE THE POWER.

15-2.5-303. Intent to exercise - after-acquired power.
(1) UNLESS THE TERMS OF THE INSTRUMENT EXERCISING A POWER OF APPOINTMENT MANIFEST A CONTRARY INTENT:

(a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), A BLANKET-EXERCISE CLAUSE EXTENDS TO A POWER ACQUIRED BY THE POWERHOLDER AFTER EXECUTING THE INSTRUMENT CONTAINING THE CLAUSE; AND

(b) IF THE POWERHOLDER IS ALSO THE DONOR OF THE POWER, THE CLAUSE DOES NOT EXTEND TO THE POWER UNLESS THERE IS NO GIFT-IN-DEFAULT CLAUSE OR THE GIFT-IN-DEFAULT CLAUSE IS INEFFECTIVE.

15-2.5-304. Substantial compliance with donor-imposed formal requirement.
(1) A POWERHOLDER'S SUBSTANTIAL COMPLIANCE WITH A FORMAL REQUIREMENT OF APPOINTMENT IMPOSED BY THE DONOR, INCLUDING A REQUIREMENT THAT THE INSTRUMENT EXERCISING THE POWER OF APPOINTMENT MAKE REFERENCE OR SPECIFIC REFERENCE TO THE POWER, IS SUFFICIENT IF:

(a) THE POWERHOLDER KNOWS OF AND INTENDS TO EXERCISE THE POWER; AND

(b) THE POWERHOLDER'S MANNER OF ATTEMPTED EXERCISE OF THE POWER DOES NOT IMPAIR A MATERIAL PURPOSE OF THE DONOR IN IMPOSING THE REQUIREMENT.

15-2.5-305. Permissible appointment.
(1) A POWERHOLDER OF A GENERAL POWER OF APPOINTMENT THAT PERMITS APPOINTMENT TO THE POWERHOLDER OR THE POWERHOLDER'S ESTATE MAY MAKE ANY APPOINTMENT, INCLUDING AN APPOINTMENT IN TRUST OR CREATING A NEW POWER OF APPOINTMENT, THAT THE POWERHOLDER COULD MAKE IN DISPOSING OF THE POWERHOLDER'S OWN PROPERTY.

(2) A POWERHOLDER OF A GENERAL POWER OF APPOINTMENT THAT PERMITS APPOINTMENT ONLY TO THE CREDITORS OF THE POWERHOLDER OR OF THE POWERHOLDER'S ESTATE MAY APPOINT ONLY TO THOSE CREDITORS.
(3) UNLESS THE TERMS OF THE INSTRUMENT CREATING A POWER OF APPOINTMENT MANIFEST A CONTRARY INTENT, THE POWERHOLDER OF A NONGENERAL POWER MAY:

(a) MAKE AN APPOINTMENT IN ANY FORM, INCLUDING AN APPOINTMENT IN TRUST, IN FAVOR OF A PERMISSIBLE APPOINTEE;

(b) CREATE A GENERAL OR NONGENERAL POWER IN A PERMISSIBLE APPOINTEE; OR

(c) CREATE A NONGENERAL POWER IN AN IMPERMISSIBLE APPOINTEE TO APPOINT TO ONE OR MORE OF THE PERMISSIBLE APPOINTEES OF THE ORIGINAL NONGENERAL POWER.

15-2.5-306. Appointment to deceased appointee or permissible appointee's descendant. (1) AN APPOINTMENT TO A DECEASED APPOINTEE IS INEFFECTIVE.

(2) UNLESS THE TERMS OF THE INSTRUMENT CREATING A POWER OF APPOINTMENT MANIFEST A CONTRARY INTENT, A POWERHOLDER OF A NONGENERAL POWER MAY EXERCISE THE POWER IN FAVOR OF, OR CREATE A NEW POWER OF APPOINTMENT IN, A DESCENDANT OF A DECEASED PERMISSIBLE APPOINTEE, WHICH DECEASED APPOINTEE IS A DESCENDANT OF ONE OR MORE OF THE GRANDPARENTS OF THE DONOR, REGARDLESS OF WHETHER THE DESCENDANT IS DESCRIBED BY THE DONOR AS A PERMISSIBLE APPOINTEE.

15-2.5-307. Impermissible appointment. (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 15-2.5-306, AN EXERCISE OF A POWER OF APPOINTMENT IN FAVOR OF AN IMPERMISSIBLE APPOINTEE IS INEFFECTIVE.

(2) AN EXERCISE OF A POWER OF APPOINTMENT IN FAVOR OF A PERMISSIBLE APPOINTEE IS INEFFECTIVE TO THE EXTENT THE APPOINTMENT IS A FRAUD ON THE POWER.

15-2.5-309. Capture doctrine - disposition of ineffectively appointed property under general power. (1) To the extent a powerholder of a general power of appointment, other than a power to withdraw property from, revoke, or amend a trust, makes an ineffective appointment:

(a) The gift-in-default clause controls the disposition of the ineffectively appointed property; or

(b) If there is no gift-in-default clause, or to the extent the clause is ineffective, the ineffectively appointed property:

(I) passes to:

(A) the powerholder if the powerholder is a permissible appointee and living; or

(B) if the powerholder is an impermissible appointee or deceased, the powerholder's estate if the estate is a permissible appointee; or

(II) if there is no taker under subparagraph (I) of this paragraph (b), passes under a reversionary interest to the donor or to the donor's transferee or successor in interest.

15-2.5-310. Disposition of unappointed property under released or unexercised general power. (1) To the extent a powerholder releases or fails to exercise a general power of appointment other than a power to withdraw property from, revoke, or amend a trust:

(a) the gift-in-default clause controls the disposition of the unappointed property; or

(b) if there is no gift-in-default clause or to the extent the clause is ineffective:

(I) except as otherwise provided in subparagraph (II) of this paragraph (b), the unappointed property passes to:
(A) THE POWERHOLDER IF THE POWERHOLDER IS A PERMISSIBLE APPOINTEE AND LIVING; OR

(B) IF THE POWERHOLDER IS AN IMPERMISSIBLE APPOINTEE OR DECEASED, THE POWERHOLDER'S ESTATE IF THE ESTATE IS A PERMISSIBLE APPOINTEE; OR

(II) TO THE EXTENT THE POWERHOLDER RELEASED THE POWER, OR IF THERE IS NO TAKER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE UNAPPOINTED PROPERTY PASSES UNDER A REVERSIONARY INTEREST TO THE DONOR OR TO THE DONOR'S TRANSFEREE OR SUCCESSOR IN INTEREST.

15-2.5-311. Disposition of unappointed property under released or unexercised nongeneral power. (I) TO THE EXTENT A POWERHOLDER RELEASES, INEFFECTIVELY EXERCISES, OR FAILS TO EXERCISE A NONGENERAL POWER OF APPOINTMENT:

(a) THE GIFT-IN-DEFAULT CLAUSE CONTROLS THE DISPOSITION OF THE UNAPPOINTED PROPERTY; OR

(b) IF THERE IS NO GIFT-IN-DEFAULT CLAUSE, OR TO THE EXTENT THE CLAUSE IS INEFFECTIVE, THE UNAPPOINTED PROPERTY:

(I) PASSES TO THE PERMISSIBLE APPOINTEES IF:

(A) THE PERMISSIBLE APPOINTEES ARE DEFINED AND LIMITED; AND

(B) THE TERMS OF THE INSTRUMENT CREATING THE POWER DO NOT MANIFEST A CONTRARY INTENT; OR

(II) IF THERE IS NO TAKER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), PASSES UNDER A REVERSIONARY INTEREST TO THE DONOR OR THE DONOR'S TRANSFEREE OR SUCCESSOR IN INTEREST.

15-2.5-312. Disposition of unappointed property if partial appointment to taker in default. UNLESS THE TERMS OF THE INSTRUMENT CREATING OR EXERCISING A POWER OF APPOINTMENT MANIFEST A CONTRARY INTENT, IF THE POWERHOLDER MAKES A VALID PARTIAL APPOINTMENT TO A TAKER IN DEFAULT OF APPOINTMENT, THE TAKER IN DEFAULT OF APPOINTMENT MAY SHARE FULLY IN UNAPPOINTED PROPERTY.
15-2.5-313. **Appointment to taker in default.** If a powerholder makes an appointment to a taker in default of appointment and the appointee would have taken the property under a gift-in-default clause had the property not been appointed, the power of appointment is deemed not to have been exercised and the appointee takes the property under the clause.

15-2.5-314. **Powerholder's authority to revoke or amend exercise.** (1) A powerholder may revoke or amend an exercise of a power of appointment only to the extent that:

(a) The powerholder reserves a power of revocation or amendment in the instrument exercising the power of appointment and, if the power is nongeneral, the terms of the instrument creating the power of appointment do not prohibit the reservation; or

(b) The terms of the instrument creating the power of appointment provide that the exercise is revocable or amendable.

**PART 4**
**DISCLAIMER OR RELEASE; CONTRACT TO APPOINT OR NOT TO APPOINT**

15-2.5-401. **Disclaimer.** (1) Subject to the "Uniform Disclaimer of Property Interests Act", part 12 of article 11 of this title:

(a) A powerholder may disclaim all or part of a power of appointment; and

(b) A permissible appointee, appointee, or taker in default of appointment may disclaim all or part of an interest in appointive property.

15-2.5-402. **Authority to release.** A powerholder may release a power of appointment, in whole or in part, except to the extent the terms of the instrument creating the power prevent the release.
15-2.5-403. **Method of release.** (1) A powerholder of a releasable power of appointment may release the power in whole or in part:

(a) **By substantial compliance with a method provided in the terms of the instrument creating the power; or**

(b) **If the terms of the instrument creating the power do not provide a method, or the method provided in the terms of the instrument is not expressly made exclusive, by:**

(I) **Delivering a writing declaring the extent to which the power is released to a person who could be adversely affected by an exercise of the power;**

(II) **Joining with some or all of the takers in default in making an otherwise-effective transfer of an interest in the property that is subject to the power, in which case the power is released to the extent that a subsequent exercise of the power would defeat the interest transferred;**

(III) **Contracting with a person who could be adversely affected by an exercise of the power not to exercise the power, in which case the power is released to the extent that a subsequent exercise of the power would violate the terms of the contract; or**

(IV) **Communicating in any other appropriate manner an intent to release the power, in which case the power is released to the extent that a subsequent exercise of the power would be contrary to manifested intent.**

15-2.5-404. **Revocation or amendment of release.** (1) A powerholder may revoke or amend a release of a power of appointment only to the extent that:

(a) **The instrument of release is revocable by the powerholder; or**

(b) **The powerholder reserves a power of revocation or**
15-2.5-405. Power to contract - presently exercisable power of appointment. (1) A powerholder of a presently exercisable power of appointment may contract:

   (a) Not to exercise the power if the contract, when made, does not confer a benefit on a person other than a taker in default or a permissible appointee; or

   (b) To exercise the power if the contract, when made, does not confer a benefit on an impermissible appointee.

15-2.5-406. Power to contract - power of appointment not presently exercisable. (1) A powerholder of a power of appointment that is not presently exercisable may contract to exercise or not to exercise the power only if the powerholder:

   (a) Is also the donor of the power; and

   (b) Has reserved the power in the instrument creating the power.

PART 5
[Reserved]

PART 6
MISCELLANEOUS PROVISIONS

15-2.5-601. Uniformity of application and construction. In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

15-2.5-602. Relation to electronic signatures in global and national commerce act. This article modifies, limits, or supersedes the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101 (c) of that act, 15 U.S.C. section 7001 (c), or authorize electronic delivery of any of the notices
DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SECTION 7003 (b).

15-2.5-603. Application to existing relationships. (1) Except as otherwise provided in this article, on the effective date of this article or of any amendment to this article:

(a) This article or any amendment to this article applies to a power of appointment created before, on, or after the effective date of this article or any amendment to this article;

(b) This article or any amendment to this article applies to any proceedings in court then pending or thereafter commenced concerning a power of appointment, except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this article or any amendment to this article, in which case the particular provision of this article does not apply and the superseeded law applies;

(c) A rule of construction or presumption provided in this article or any amendment to this article applies to an instrument executed before the effective date of this article unless there is a clear indication of a contrary intent in the terms of the instrument;

(d) Except as otherwise provided in paragraphs (a) to (c) of this subsection (1), an action done before the effective date of this article is not affected by this article or any amendment to this article; and

(e) No provision of this article or of any amendment to this article shall apply retroactively if the court determines that such application would cause the provisions to be retrospective in its operation in violation of section 11 of article II of the state constitution.

(2) If a right is acquired, extinguished, or barred on the expiration of a prescribed period that commenced under law of this state other than this article or any amendment to this
ARTICLE BEFORE THE EFFECTIVE DATE OF THIS ARTICLE, THE LAW CONTINUES TO APPLY TO THE RIGHT.


SECTION 3. In Colorado Revised Statutes, add 15-1-201.5 as follows:

15-1-201.5. Definitions. As used in this part 2, "DONEE" has the same meaning as "POWERHOLDER" as set forth in section 15-2.5-102 (13).

SECTION 4. In Colorado Revised Statutes, 15-10-201, add (16.7) as follows:

15-10-201. General definitions. Subject to additional definitions contained in this article and the subsequent articles that are applicable to specific articles, parts, or sections, and unless the context otherwise requires, in this code:

(16.7) "DONEE", as used in the context of powers of appointment, has the same meaning as "POWERHOLDER" as set forth in section 15-2.5-102 (13).

SECTION 5. Act subject to petition - effective date. This act takes effect July 1, 2015; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on
July 1, 2015, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Morgan Carroll
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

PAGE 17-HOUSE BILL 14-1353
The Alabama Taxpayer Fairness Act (Act No. 2014-146) was signed into law by Governor Bentley on March 11. The act establishes the Alabama Tax Tribunal (ATT) by abolishing the current Administrative Law Division of the Alabama Department of Revenue (ADOR) and transferring both the personnel and equipment to a newly-formed, independent state agency under the executive branch.

The act is substantially similar to the American Bar Association’s Model State Administrative Tax Tribunal Act, except that appeals from the ATT will continue to be filed with the appropriate circuit court rather than with the Alabama Court of Civil Appeals.

The stated purpose of the ATT is to increase public confidence in the fairness of the state tax system by providing an independent agency with tax expertise to resolve disputes between ADOR and taxpayers, prior to requiring the payment of the amounts in issue or the posting of a bond, but after the taxpayer has had a full opportunity to attempt settlement with ADOR based, among other things, on the hazards of litigation. By establishing an independent tax tribunal within the executive branch of government, taxpayers are provided with a means of resolving controversies that ensures both the appearance and the reality of due process and fundamental fairness.

Perhaps of equal importance will be the ability of taxpayers, for the first time, to appeal most final assessments issued by localities or their contract-auditing firms to the ATT.

There are three key features of the ATT:

1. ATT judges are appointed by the Governor for six-year terms. There must be at least one ATT judge, but may be no more than three in total. In addition, the Governor may appoint pro tem judges if necessary.
2. Taxpayers may appeal final assessments of sales, use, rental, and lodging taxes issued by or on behalf of self-administered cities and counties to the ATT, unless the governing body of the self-administered city or county opts out.
3. No filing fees are imposed on taxpayers for appeals to the ATT.

Allowing taxpayers to appeal final assessments issued by self-administered cities and counties or their contract-auditing firms is a major step toward addressing the frustration of the business community and tax practitioners with differing interpretations of the law and varied appeals procedures offered by the many self-administered localities and their private auditing firms. This provision is designed to work hand-in-hand with the new Optional Network Election for Single Point Online Transactions (ONE STOP) e-filing program for local sales, use, and rental taxes.
AN ACT relating to automated business record falsification devices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➤ SECTION 1. A NEW SECTION OF KRS CHAPTER 517 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of an automated business record falsification device when he or she knowingly possesses any device or software program that falsifies the business records created by a point-of-sale system, such as any electronic device or computer system that keeps a register or supporting documents designed to record retail sales transaction information, by eliminating or manipulating true retail sales transaction information in order to represent a false record of transactions. These devices may also be referred to as "zappers" or "phantom-ware."

(2) Possession of an automated business record falsification device is a Class D felony.

(3) In addition to any other penalty provided by law:

(a) Any person guilty of possession of an automated business record falsification device shall forfeit all proceeds associated with its creation, sale, or usage; and

(b) An automated business record falsification device, and any device containing an automated business record falsification device, is contraband and shall be seized and forfeited to the state to be disposed of as provided in KRS 500.090.

➤ Section 2. KRS 139.760 is amended to read as follows:

(1) Whenever any person fails to comply with any provisions of this chapter or any administrative rule or regulation of the department relating to the provisions of this chapter, the department may revoke or suspend any one (1) or more of the permits held by the person.
Whenever any person uses an automated business record falsification device, as described in Section 1 of this Act, to violate any provision of this chapter or any administrative regulation of the department relating to the provisions of this chapter, the department shall revoke each permit held by the person for a period of ten (10) years.

The department shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this chapter and the regulations relating thereto.

No suit shall be maintained in any court to restrain or delay the collection or payment of any tax levied by this chapter.
HB384

156953-7

By Representatives Buttram, Baker, Collins and Hubbard (M)

RFD: Ways and Means Education

First Read: 30-JAN-14
ENROLLED, An Act,

Relating to state income tax; to provide a state income tax credit to individuals and businesses that make contributions for qualifying educational expenses directly associated with the Career-Technical Dual Enrollment Program as defined by the State Board of Education for tax years beginning January 1, 2015, and thereafter; and to specify the obligations of the Department of Postsecondary Education, the Commissioner of Revenue, and the Department of Revenue in implementing the act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the purposes of this act, the following words shall have the following meanings:

(1) CAREER-TECHNICAL DUAL ENROLLMENT PROGRAM. A program that allows eligible high school students to enroll in college-level career technical education courses, as designed by the Chancellor of the Department of Postsecondary Education, that are offered at Alabama Community College System institutions and allows such enrolled students to concurrently earn high school and college credit in courses toward a certificate or degree, or both, and which prepares them to enter the workforce in high skill, high wage, or high demand occupations.

(2) CONTRIBUTION. A donation of cash.
(3) ELIGIBLE STUDENT. A high school student who meets the eligibility requirements and standards as prescribed by State Board of Education policy to enroll for Career-Technical Education Dual Enrollment/Dual Credit courses.

(4) QUALIFYING EDUCATIONAL EXPENSES. Tuition, fees, books, materials, and supplies required of or on behalf of a student by the Alabama Community College System institution or institutions for participation in a Career-Technical Dual Enrollment Program.

(5) TAXPAYER. An individual taxpayer, a married couple filing a joint tax return, a limited liability company, a corporation, or any other business entity lawfully organized and created under the laws of this state or other state.

Section 2. (a)(1) For tax years commencing January 1, 2014, and thereafter, a taxpayer who files a state income tax return and is not a dependent of another taxpayer may claim a tax credit for a contribution made to the Department of Postsecondary Education for qualifying educational expenses directly associated with the Career-Technical Dual Enrollment Program as defined by State Board of Education policy.

(2) The tax credit may be claimed by the taxpayer in an amount equal to 50 percent of the total contribution or contributions made to the Department of Postsecondary
Education during the taxable year for which the credit is claimed, but such credit is not to exceed an amount greater than 50 percent of the taxpayer's total Alabama income tax liability, and in no case more than five hundred thousand dollars ($500,000) for any given tax year.

(3) The cumulative amount of tax credits issued pursuant this act shall not exceed five million dollars ($5,000,000) annually. The Department of Revenue, in conjunction with the Department of Postsecondary Education, shall develop procedures to ensure that this cap is not exceeded, shall also prescribe the various methods by which these credits are to be issued, and shall develop procedures to notify taxpayers at such points in time when the five million dollar ($5,000,000) annual limitation has been reached for the tax credit pursuant to this act.

(4) A taxpayer may carry forward all or part of a tax credit granted to the taxpayer under this act for a period of up to three years.

(b)(1) The Department of Revenue shall adopt rules and procedures consistent with this section as necessary to implement the provisions of this act.

(2) The Department of Revenue shall provide a standardized format for a receipt to be issued by the Department of Postsecondary Education to a taxpayer to indicate the value of a contribution received. The Department
of Revenue shall require the taxpayer to provide a copy of the receipt when claiming the tax credit pursuant to this act.

(c) The tax credit provided in this section may be first claimed for the 2014 2015 tax year and may not be claimed for any tax year prior to the 2014 2015 tax year.

Section 3. (a) The Department of Revenue may require a taxpayer to submit copies of receipts or other similar financial documentation with the taxpayer's state income tax return as necessary to confirm eligibility for the tax credit.

(b) The Department of Revenue shall promulgate rules and develop any tax forms, directions, and worksheets as necessary to effectuate the intent of this act.

Section 4. (a) The Commissioner of Revenue shall annually report the total amount of tax credits claimed and authorized pursuant to this act, on or before the fifteenth day of each regular session, to the Director of Finance, the Chair of the House Ways and Means Education Committee, and the Chair of the Senate Finance and Taxation Education Committee.

(b) The Department of Postsecondary Education shall include in its regular quarterly report amounts expended for qualifying education expenses pursuant to this act to the Director of Finance, the Chair of the House Ways and Means Education Committee, and the Chair of the Senate Finance and Taxation Education Committee.
Section 5. (a) The Department of Postsecondary Education shall be responsible for administering the Career-Technical Dual Enrollment Program, for promulgating rules necessary for the department to implement the provisions of this act, and for allocating or disbursing the funds made available by this act for qualifying educational expenses. However, the Department of Postsecondary Education may annually allocate up to two hundred thousand dollars ($200,000) out of the funds received pursuant to this act for qualifying educational expenses for administrative costs directly associated with implementing the provisions of this act.

(b) The Department of Postsecondary Education shall work with business and industry partners, the Alabama Workforce Training Council, the Alabama Community College system, and the Regional Workforce Development Councils to ensure that the funds received pursuant to this act are allocated in a manner consistent with addressing the identified needs in each workforce region regarding the Career-Technical Dual Enrollment Program.

(c) Notwithstanding any other provision of this act, a taxpayer that makes a contribution toward qualifying educational expenses for the Career-Technical Dual Enrollment Program may direct that up to 80 percent of the taxpayer's contribution be allocated by the Department of Postsecondary Education.
Education to specific career technical programs or courses at a particular Alabama Community College System institution. The remaining or otherwise undirected portion of any such contribution shall be allocated or disbursed by the Department of Postsecondary Education pursuant to the provisions of this act.

(d) Any portion of funds from contributions received pursuant to this act during a tax year and remaining unallocated at the end of that tax year may be used by the Department of Postsecondary Education in subsequent tax years for qualifying educational expenses.

Section 6. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
HOUSE ENROLLED ACT No. 1003

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-28-7-1, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. As used in The following definitions apply throughout this chapter:

(1) "Business" includes an entity that has the objective of supplying a service or an article of trade or commerce.
(2) "School corporation" has the meaning set forth in IC 20-18-2-16(a).
(3) "Charter school" has the meaning set forth in IC 20-18-2-2.5.

SECTION 2. IC 5-28-7-2, AS AMENDED BY P.L.67-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. The corporation shall do the following:

(1) Establish policies to carry out a training assistance program, the purpose of which is to provide assistance to the following:
(A) New or expanding businesses, for the training or retraining of potential or incumbent employees and the retraining and upgrading of the skills of potential or incumbent employees.
(B) Businesses in Indiana, for the retraining and upgrading of employees' skills required to support new or existing capital investment.
(C) Businesses in Indiana, for the development of basic workforce skills of employees, including the following:

HEA 1003 — CC 1
(i) Literacy.
(ii) Communication skills.
(iii) Computational skills.
(iv) Other transferable workforce skills approved by the corporation.

(D) School corporations and charter schools, to support career pathways for students through cooperative arrangements with businesses for the education and training of students in high wage, high demand jobs that require industry certifications.

(2) Provide promotional materials regarding the training program.
(3) Determine the eligibility of an industry for the training program.
(4) Require a commitment by a business receiving training assistance under this chapter to continue operations at a site on which the training assistance is used for at least five (5) years after the date the training assistance expires. If a business fails to comply with this commitment, the corporation shall require the business to repay the training assistance provided to the business under this chapter.

SECTION 3. IC 5-28-7-4, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. Participation in the training program is limited to businesses entities that:
(1) meet the eligibility requirements of the corporation; and
(2) comply with this chapter.

SECTION 4. IC 5-28-7-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) The corporation may award grants from the training 2000 fund to school corporations and charter schools to support cooperative arrangements with businesses for training students.

(b) A school corporation or a charter school must apply to the corporation for a grant under this section in the manner prescribed by the corporation.

(c) The corporation may consult with Indiana works councils to develop the application and eligibility requirements for grants awarded under this section.

SECTION 5. IC 6-3.1-13-13, AS AMENDED BY P.L.4-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) The corporation may make credit awards under this chapter for any of the following:

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(1) To foster job creation in Indiana.
(2) or, as provided in section 15.5 of this chapter, To foster job retention in Indiana.
(3) For taxable years beginning after December 31, 2014, and before January 1, 2019, to foster employment in Indiana of students who participate in a course of study that includes a cooperative arrangement between an educational institution and an employer for the training of students in high wage, high demand jobs that require an industry certification.

(b) The credit shall be claimed for the taxable years specified in the taxpayer's tax credit agreement.

SECTION 6. IC 6-3.1-13-14, AS AMENDED BY P.L.4-2005, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14. (a) A person that proposes a project to create new jobs in Indiana may apply, as provided in section 15 of this chapter, to the corporation to enter into an agreement for a tax credit under this chapter.

(b) A person that proposes to retain existing jobs in Indiana may apply, as provided in section 15.5 of this chapter, to the corporation to enter into an agreement for a tax credit under this chapter.

(c) This subsection applies to taxable years beginning after December 31, 2014, and before January 1, 2019. A person that proposes to employ in Indiana students who have participated in a course of study that includes a cooperative arrangement between an educational institution and an employer for the training of students in high wage, high demand jobs that require an industry certification may apply, as provided in section 15.7 of this chapter, to the corporation to enter into an agreement for a tax credit under this chapter.

(d) The director shall prescribe the form of the application.

SECTION 7. IC 6-3.1-13-15.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15.7. (a) This section applies to an application proposing to employ students who have participated in a course of study that includes a cooperative arrangement between an educational institution and an employer for the training of students in high wage, high demand jobs that require an industry certification.

(b) A taxpayer who wishes to claim the credit provided by this chapter for employment of candidates to which this section applies may submit an application to the corporation after June 30, 2014, for a taxable year beginning after December 31, 2014, and before
January 1, 2019, in the manner prescribed by the corporation.

(c) After receipt of an application, the corporation may enter into an agreement with the applicant for a tax credit under this chapter if the corporation determines that the applicant:

(1) participates in at least one (1) cooperative arrangement with an educational institution for the training of students in high wage, high demand jobs that require an industry certification; and

(2) meets any additional eligibility conditions established by the corporation.

(d) The corporation may consult with the Indiana career council to develop eligibility and performance conditions that an applicant must meet to qualify for a credit award to which this section applies.

(e) The aggregate amount of tax credits awarded under this section for a state fiscal year may not exceed two million five hundred thousand dollars ($2,500,000).

SECTION 8. IC 6-3.1-13-19.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 19.7. (a) In the case of a credit awarded for employment in Indiana of students who have participated in a course of study that includes a cooperative arrangement between an educational institution and an employer for the training of students in high wage, high demand jobs that require an industry certification, the corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the applicant's own cooperative arrangements between the applicant and educational institutions for the training of students in high wage, high demand jobs that require an industry certification.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain the applicant's cooperative arrangements between the applicant and educational institutions for the training of students in high wage, high demand jobs that require an industry certification for at least two (2) years following the last taxable year in which the applicant claims the tax credit or carries over an unused part of the tax credit under section 18.
of this chapter. A taxpayer is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.

(5) A specific method for determining the number of employees who:
   (A) were students who participated in a course of study that included a cooperative arrangement between an employer and an educational institution for the training of students in high wage, high demand jobs that require an industry certification; and
   (B) are employed during a taxable year.

(6) A requirement that the taxpayer annually shall report to the corporation:
   (A) the number of employees who participated in a course of study that includes a cooperative arrangement between an employer and an educational institution for the training of students in high wage, high demand jobs that require an industry certification;
   (B) the income tax revenue withheld in connection with the employees described in clause (A); and
   (C) any other information the director needs to perform the director's duties under this chapter.

(7) A requirement that the director is authorized to verify with the appropriate state agencies the information reported under subdivision (6), and after doing so shall issue a certificate to the taxpayer stating that the information has been verified.

(8) A requirement that the taxpayer shall provide written notification to the director and the corporation not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(9) Any other performance conditions that the corporation determines are appropriate.

(b) A taxpayer who is awarded a credit under this chapter for employees who participated in a course of study that included a cooperative agreement between an employer and an educational institution for the training of students in high wage, high demand jobs that require an industry certification may claim the credit only for employees whose course of study included a cooperative arrangement between the taxpayer and an educational institution for the training of students in high wage, high demand jobs that
require an industry certification.

SECTION 9. IC 22-4.5-9-2 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 2: As used in this chapter, “system” refers to the Indiana workforce intelligence system established by IC 22-4.5-10-3.

SECTION 10. IC 22-4.5-9-4, AS AMENDED BY SEA 24-2014, SECTION 101, AND BY HEA 1064-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The council shall do all of the following:

1. Provide coordination to align the various participants in the state's education, job skills development, and career training system.
2. Match the education and skills training provided by the state's education, job skills development, and career training system with the currently existing and future needs of the state's job market.
3. Provide administrative oversight of the system.

In addition to the department's annual report provided under IC 22-4-18-7, submit, not later than August 1, 2013, and not later than November 1 each year thereafter, to the legislative council in an electronic format under IC 5-14-6 an inventory of current job and career training activities conducted by:

- (A) state and local agencies; and
- (B) whenever the information is readily available, private groups, associations, and other participants in the state's education, job skills development, and career training system.

The inventory must provide at least the information listed in IC 22-4-18-7(a)(1) through IC 22-4-18-7(a)(5) for each activity in the inventory.

Submit, not later than July 1, 2014, to the legislative council in an electronic format under IC 5-14-6 a strategic plan to improve the state's education, job skills development, and career training system. The council shall submit, not later than December 1, 2013, to the legislative council in an electronic format under IC 5-14-6 a progress report concerning the development of the strategic plan. The strategic plan developed under this subdivision must include at least the following:

- (A) Proposed changes, including recommended legislation and rules, to increase coordination, data sharing, and communication among the state, local, and private agencies, groups, and associations that are involved in education, job skills development, and career training.
- (B) Proposed changes to make Indiana a leader in employment opportunities related to the fields of science, technology,
engineering, and mathematics (commonly known as STEM).
(C) Proposed changes to address both:
(i) the shortage of qualified workers for current employment
opportunities; and
(ii) the shortage of employment opportunities for individuals
with a baccalaureate or more advanced degree.

(5) Complete, not later than August 1, 2014, a return on
investment and utilization study of career and technical education
programs in Indiana. The study conducted under this subdivision
must include at least the following:
(A) An examination of Indiana's career and technical
education programs to determine:
(i) the use of the programs; and
(ii) the impact of the programs on college and career
readiness, employment, and economic opportunity.
(B) A survey of the use of secondary, college, and university
facilities, equipment, and faculty by career and technical
education programs.
(C) Recommendations concerning how career and technical
education programs:
(i) give a preference for courses leading to employment in
high wage, high demand jobs; and
(ii) add performance based funding to ensure greater
competitiveness among program providers and to increase
completion of industry recognized credentials and dual
credit courses that lead directly to employment or
postsecondary study.

(6) Coordinate the performance of its duties under this chapter
with:
(A) the education roundtable established by IC 20-19-4-2; and
(B) the Indiana works councils established by IC 20-19-6-4.
(b) In performing its duties, the council shall obtain input from the
following:
(1) Indiana employers and employer organizations.
(2) Public and private institutions of higher education.
(3) Regional and local economic development organizations.
(4) Indiana labor organizations.
(5) Individuals with expertise in career and technical education.
(6) Military and veterans organizations.
(7) Organizations representing women, African-Americans,
Latinos, and other significant minority populations and having an
interest in issues of particular concern to these populations.
(8) Individuals and organizations with expertise in the logistics industry.
(9) Any other person or organization that a majority of the voting members of the council determines has information that is important for the council to consider.

SECTION 11. IC 22-4.5-9-9, AS ADDED BY P.L.60-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. The governor may request the assistance of any state agency, board, commission, committee, department, division, or other entity of the executive department of state government as necessary to provide staff and administrative support to the council.

SECTION 12. IC 22-4.5-10-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.5. As used in this chapter, "governance committee" refers to the INK governance committee established by section 7 of this chapter.

SECTION 13. IC 22-4.5-10-2, AS ADDED BY P.L.60-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. As used in this chapter, "system" "INK" refers to the Indiana workforce intelligence system network of knowledge established by section 3 of this chapter.

SECTION 14. IC 22-4.5-10-3, AS ADDED BY P.L.60-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. The Indiana workforce intelligence system network of knowledge is established as a statewide longitudinal data system that contains educational and workforce information:

1) from educational institutions at all levels; and
2) about the state's workforce;
to improve the effect of the state's educational delivery system on the economic opportunities of individuals and the state's workforce, and to guide state and local decision makers.

SECTION 15. IC 22-4.5-10-4, AS ADDED BY P.L.60-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The system INK must do the following:

1) Effectively organize, manage, break down, and analyze educational, and workforce, and other data.
2) Generate timely and accurate information about student progress and outcomes over time, including students' preparation for postsecondary education and the workforce.
3) Generate timely and accurate information that is available to the public about the effectiveness of the state's job training
programs, including at least the following:
(A) The number of participants in each program.
(B) The number of participants who, as a result of the training received in the program:
   (i) secured employment; or
   (ii) were retained by an employer.
(C) The average wage of the participants who secured employment or were retained by an employer.
(4) Support the economic development and other activities of state and local governments.
(b) The INK may not obtain or store the following student data:
   (1) Disciplinary records.
   (2) Juvenile delinquency records.
   (3) Criminal records.
   (4) Medical and health records.

SECTION 16. IC 22-4.5-10-5, AS ADDED BY P.L.60-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) The department of education (established by IC 20-19-3-1), the department of workforce development (established by IC 22-4.1-2-1), the commission for higher education (established by IC 21-18-2-1), and other agencies of the state that collect relevant data related to educational and workforce outcomes shall submit that data to the system INK on a timely basis and shall ensure the following:
   (1) Routine and ongoing compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g), IC 22-4-19-6, and other relevant privacy laws and policies, including the following:
      (A) The required use of data that cannot be used to identify information relating to a specific individual or entity.
      (B) The required disposition of information that is no longer needed.
      (C) The provision of a data security plan, including the performance of regular audits for compliance with data privacy and security standards.
      (D) The implementation of guidelines and policies to prevent the reporting of other data that may potentially be used to identify information relating to a specific individual or entity.
   (2) The use of data only in summary form in reports and responses to information requests. Data that may identify specific individuals or entities because of the size or uniqueness of the population involved may not be reported in any form.
(b) After June 30, 2014, other agencies of the state shall submit to the INK on a timely basis relevant data, including data at the individual level, as determined by the INK governance committee.

(c) The data submitted to INK under subsections (a) and (b):
(1) remains under the ownership and control of the agency submitting the data; and
(2) may be used only for the purposes of this chapter, unless the agency that submitted the data consents to the additional use.

(d) After June 30, 2014, the following may submit educational, workforce, and other relevant data, as applicable, to the INK by working with and through the INK executive director:
(1) Private sector business or commercial employers, groups, associations, agencies, and other entities.
(2) Private institutions of higher education.

SECTION 17. IC 22-4.5-10-6, AS ADDED BY P.L.60-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) The:
(1) council, before July 1, 2018; 2014; and
(2) governor, governance committee, working in collaboration with the executive director, after June 30, 2018; 2014;
shall provide administrative oversight to the system INK through the executive director.

(b) Administrative oversight of the system INK includes all the following:
(1) Provide general oversight and direction for the development and maintenance of the system INK, including the organizational framework for the day to day management of the INK.
(2) Approve an annual budget for the system. Work with the executive director and other state agencies participating in the INK to establish the following:
   (A) A standard compliance time frame for the submission of data to the INK.
   (B) Interagency policies and agreements to ensure equal access to the INK.
   (C) Interagency policies and agreements to ensure the ongoing success of the INK.
(3) Hire staff necessary to administer the system INK.
(4) Develop and implement a detailed data security and safeguarding plan that includes:
   (A) access by authenticated authorization;
(B) privacy compliance standards;
(C) notification and other procedures to protect system data if a breach of the INK system occurs; and
(D) policies for data retention and disposition.

(5) **Oversee Develop and implement policies to provide** routine and ongoing compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g), **IC 22-4-19-6**, and other relevant privacy laws and policies.

(6) **Establish the policy and research agenda for the INK.**

(6) **(7) Review research requirements and** Establish policies for responding to data requests from the state, local agencies, the general assembly, and the public. The policies established under this subdivision must provide for access to data in the INK requested by the legislative department of state government. If the data requested by the legislative department includes data that is restricted by federal law, regulation, or executive order, the governance committee shall provide access to the legislative department to the restricted data to the extent permitted by the applicable federal law, regulation, or executive order.

(7) **(8) Oversee the development of public access to the system INK in a manner that:**

(A) permits research using the data in aggregated form; and
(B) cannot provide information that allows the identification of a specific individual or entity.

(8) **Identify additional sources of data for the system from among state entities and require those entities to submit relevant data to the system:**

(9) **Submit, not later than September 1, 2015, and not later than September 1 each year thereafter, to the governor, to the legislative council in an electronic format under IC 5-14-6, and to the council, a report covering the following for the most recent fiscal year:**

(A) An update concerning the administration of the INK and the governance committee's activities.
(B) An overview of all studies performed.
(C) Any proposed or planned expansions of the data maintained by the INK.
(D) Any other recommendations made by the executive director and the governance committee.

(c) Funding for the development, maintenance, and use of the system INK may be obtained from any of the following sources:
(1) Appropriations made by the general assembly for this purpose.
(2) Grants or other assistance from local educational agencies or institutions of higher education.
(3) Federal grants.
(4) User fees.
(5) Grants or amounts received from other public or private entities.
(d) The council (before July 1, 2014) and the governor through the executive director (after June 30, 2014) may contract with public or private entities for the following purposes:
  (1) To develop and maintain the INK, including the analytical and security capabilities of the INK. Contracts made under this subdivision must include:
      (A) express provisions that safeguard the privacy and security of the INK; and
      (B) penalties for failure to comply with the provisions described in clause (A).
  (2) To conduct research in support of the activities and objectives listed in section 4 of this chapter.
  (3) To conduct research on topics at the request of the council, the governor, or the general assembly.

SECTION 18. IC 22-4.5-10-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:
Sec. 7. (a) The INK governance committee is established.
(b) The governance committee consists of at least the following six (6) members:
  (1) The commissioner of the department of workforce development, or the commissioner's designee with authority to act on behalf of the commissioner.
  (2) The commissioner of the commission for higher education, or the commissioner's designee with authority to act on behalf of the commissioner.
  (3) The state superintendent of public instruction, or the state superintendent's designee with authority to act on behalf of the state superintendent.
  (4) One (1) member representing private colleges and universities appointed by the governor.
  (5) One (1) member representing the business community in Indiana appointed by the governor.
  (6) The INK executive director. The INK executive director serves in a nonvoting advisory capacity.

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(c) The governor may appoint additional members to the governance committee as necessary to ensure the continued success of the INK. Additional members appointed under this subsection must represent other state agencies or partner organizations, as determined by the governance committee, that submit data to the INK.

(d) A member of the governance committee appointed by the governor serves at the pleasure of the governor.

(e) The governor shall make the initial appointments under this section not later than July 15, 2014.

(f) A vacancy on the governance committee is filled in the same manner as the original appointment.

(g) The governor shall appoint the chair of the governance committee from its voting members. The chair serves for one (1) year, or until a successor is selected.

(h) The governance committee shall meet at least quarterly or at the call of the chair.

(i) A majority of the voting members of the governance committee constitutes a quorum for the purpose of conducting business. The affirmative vote of a majority of the members of the governance committee is required for the governance committee to take official action.

SECTION 19. IC 22-4.5-10-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Sec. 8. (a) The governor shall:

(1) appoint an INK executive director from a list of three (3) candidates submitted by the governance committee; or

(2) reject all of the candidates on the list submitted by the governance committee.

(b) If the governor rejects all of the candidates on the list submitted by the governance committee, the governor shall notify the chair of the governance committee.

(c) Not later than thirty (30) days after the date the governance committee receives the governor's notice under subsection (b), the governance committee shall submit to the governor a second list of three (3) new candidates for the position of INK executive director. The governor shall appoint the INK executive director from the second list of candidates submitted by the governance committee.

(d) The INK executive director serves at the pleasure of the governor.

(e) Whenever a vacancy in the position of INK executive director occurs, the governor shall notify the chair of the
governance committee. Not later than ten (10) days after the date the governance committee receives notice of the vacancy, the chair shall call a meeting of the governance committee to begin the process of filling the vacancy. Not later than thirty (30) days after the date the governance committee receives notice of the vacancy, the governance committee shall submit to the governor a list of three (3) candidates to fill the vacancy.

(f) The governance committee shall submit to the governor the initial list of three (3) candidates for INK executive director not later than August 15, 2014.

(g) The executive director is responsible for the daily administration of the INK.

(h) The executive director shall do all the following:
   (1) Work with the governance committee, state agencies, and other entities participating in the INK to develop and implement appropriate policies and procedures concerning the INK’s data quality, integrity, transparency, security, and confidentiality.
   (2) Coordinate the provision and delivery of data, as determined by the governance committee, to ensure that research project timelines and deliverables to stakeholders are met.
   (3) Provide reports concerning the INK and the executive director's activities to the governor and the governance committee.
   (4) Work in collaboration with the governance committee to hire staff as necessary to administer the INK.
   (5) Perform other duties as assigned by the governor.

SECTION 20. IC 22-4.5-10-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) Each member of the governance committee who is not a state employee is entitled to the following:
   (1) The salary per diem provided under IC 4-10-11-2.1(b).
   (2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
   (3) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the governance committee who is a state employee is entitled to the following:

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(1) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(2) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 21. IC 22-4.5-10.5-3, AS AMENDED BY SEA 24-2014, SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) The department, in consultation with the commission for higher education, the department of education, the office of the secretary of family and social services, and any other agency the department determines is necessary, shall include in the Indiana workforce intelligence system network of knowledge established by IC 22-4.5-10-3 as added by HB 1002-2013, SECTION 2, information regarding the middle skill credentials awarded in Indiana for the immediately preceding state fiscal year.

(b) The information required under subsection (a) must include:

(1) the aggregate number of enrollees in programs leading to middle skill credentials from:

(A) public institutions of higher education;
(B) private institutions of higher education;
(C) postsecondary proprietary educational institutions;
(D) community colleges;
(E) area vocational schools;
(F) high school vocational programs;
(G) apprenticeship programs; and

(2) aggregate data of industry based certifications awarded as the result of the completion of education and employment training programs.

(c) The department shall publish the information described in subsection (b) in the department's annual report.
Fiscal Note & Local Impact Statement

Bill: Am. Sub. H.B. 488 of the 130th G.A.  Date: June 4, 2014
Status: As Passed by the Senate  Sponsor: Reps. Dovilla and Landis

Local Impact Statement Procedure Required: No

Contents: Veterans’ benefits and services and to clarify membership in the State Teachers Retirement System

State Fiscal Highlights

- **Board of Regents and state institutions of higher education.** The Board of Regents and state institutions of higher education may experience an increase in administrative costs to assist and support veterans’ access to higher education as required by the bill.

- **Board of Pharmacy.** The bill’s provision related to granting pharmacy licensure fee waivers to veterans and active duty members may result in a no more than minimal annual loss in revenues that might otherwise have been deposited in the state treasury to the credit of the Occupational Licensing and Regulatory Fund (Fund 4K90).

- **Department of Veterans Services.** The Department of Veterans Services (DVS) will experience a workload increase related to the new duties prescribed to the Director under the bill, the annual costs of which are likely to be minimal at most.

- **State licensing boards.** Licensing agencies may experience a one-time increase in expenditures related to drafting and implementing the rules necessary in order to provide expedited licensing services to veterans, active duty members and their affected spouses.

- **State Approving Agency (DVS) and various state agencies.** The State Approving Agency, housed in the Department of Veterans Services, will likely experience an administrative cost increase in order to process agency approvals for certain federal educational benefits. Those state agencies that are not currently registering with the State Approving Agency may experience a one-time administrative cost increase.

- **Department of Rehabilitation and Correction.** The Department of Rehabilitation and Correction’s annual GRF-funded incarceration costs may minimally increase, as in any given year a few additional felony theft or fraud offenders could be sentenced to a term in prison, or sentenced to a longer term than might otherwise have been the case under current law and sentencing practices.
Court cost revenues. There may be a minimal at most annual gain in the amount of the locally collected court cost that is credited to the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0), as a few additional theft or fraud offenders may be adjudicated guilty at the enhanced penalty levels included in the bill.

Job and Family Services. The provision requiring the Ohio Department of Job and Family Services to maintain a registry of employers that have a voluntary veterans preference employment policy will result in an increase in costs for the Department to establish and maintain the registry.

State Teachers Retirement System (STRS). The provision that modifies STRS membership eligibility requirements for certain teachers may increase STRS' administrative costs.

Local Fiscal Highlights

County criminal justice systems. The bill elevates certain theft and fraud cases by one degree. It is possible that these penalty enhancements may actually accelerate the resolution of some felony cases, which potentially reduces county adjudication, prosecution, and indigent defense costs. It is equally possible that, as offenders are facing a more serious sanction, the resolution of some felony cases may actually slow down as offenders seek to avoid prison or shorten the length of a potential prison sentence. Such an outcome could increase county adjudication, prosecution, and indigent defense costs. The net fiscal effect of these contrasting possibilities on annual county criminal justice system expenditures is likely to be minimal.

Municipal criminal justice systems. The bill's penalty enhancements will move some misdemeanor theft and fraud cases from municipal criminal justice systems to county criminal justice systems. This means that any related case processing and sanctioning costs and related revenue gains in the form of fines and court costs shift as well from municipalities to counties. Any resulting decrease in municipal revenues and expenditures is likely to be minimal annually.

School districts. The provision related to STRS membership may increase costs related to retirement benefits for certain school districts. Currently, school districts contribute 14% of payroll into STRS.
Detailed Fiscal Analysis

Veterans' access to higher education

The bill makes several changes that generally affect higher education benefits for veterans that will require the Board of Regents and state institutions of higher education to take certain actions that may increase their ongoing administrative costs. These changes (which will take place not later than December 31, 2014, unless otherwise noted) are as follows:

1. Requires the Chancellor of the Board of Regents to: (a) develop a set of standards and procedures for the awarding of credit for military training, experience, and coursework, (b) create a military articulation and transfer assurance guide for such credit that is based on the current articulation and transfer policy, (c) create a website that contains specified information related to the awarding of such credit, and (d) develop a statewide training program that prepares faculty and staff to evaluate various military experiences and to award appropriate equivalent credit.

2. Requires all state institutions of higher education, beginning on July 1, 2015, to ensure that appropriate equivalent credit is awarded for military experiences that meet the standards developed by the Chancellor.

3. Prohibits a state institution of higher education, on or after December 31, 2014, from charging a fee to a student who is an armed forces veteran or service member for the evaluation of, transcription of, or application for college credit for military experience.

4. Requires each state institution of higher education to establish an appeals procedure for resolving disputes regarding the awarding of college credit for military experience.

5. Requires each state institution of higher education to: (a) designate at least one person (not a Veterans Administration Certifying Official) to serve as the contact person for veterans affairs, (b) adopt a policy regarding the support and assistance the institution will provide to veterans, (c) survey student service members and veterans to identify their needs and challenges and make the survey available to the institution's faculty and staff, (d) allow for the establishment of a student-led group on campus for student service members and veterans, and (e) integrate existing career services to create collaborative relationships between student service members and veterans and alumni of the institution, link student service members and veterans with prospective employers, and provide student service members and veterans with social opportunities, and requires the Chancellor to provide guidance to state institutions in their compliance with these responsibilities.
6. Requires all state institutions of higher education to provide priority course registration for students who are armed forces veterans or service members.

7. Requires the Chancellor to prepare a report describing the progress made by state institutions of higher education in implementing all of the above-mentioned provisions, and to deliver the report to the General Assembly within six months of the effective date of the bill.

**Nursing Education Assistance Loan Program for active duty members**

The Nursing Education Assistance Loan Program (NEALP) provides financial assistance to Ohio students enrolled in nurse education programs. Loans are supported by a portion of the licensing fees paid by nurses and are provided through Fund 6820, appropriation item 235606, Nursing Loan Program. Students who complete their programs are eligible for forgiveness of the loan as long as they are employed in a nursing occupation in Ohio.

The bill requires the Chancellor to adopt rules whereby an active duty member serving outside of the state, or the spouse of an active duty member serving outside of the state, may have an NEALP loan forgiven. This provision could result in a decrease in state revenues as more loans under the program are forgiven.

**Exemption for state institutions of higher education from electronic records and signature requirements**

Continuing law requires most executive state agencies to follow certain rules consistent with those of DAS when creating, using, receiving, or retaining electronic records and when creating, using, or receiving electronic signatures. The bill exempts state institutions of higher education from this requirement. However, if a state institution of higher education uses electronic records or signatures, the institution must adopt rules governing their use. This provision may provide institutions more flexibility, but is not likely to have a significant fiscal effect.

**Pharmacy licensing fees waived for veterans and active duty members**

The bill waives the fees associated with the issuance and renewal of a license to practice pharmacy for veterans and active members of the armed forces, within limits that may be established by the Board of Pharmacy. This provision is expected to affect around 25 to 50 licensees a year. The potential annual revenue loss is likely to be considerably less than $100,000. This is revenue that would otherwise have been deposited in the state treasury to the credit of the Occupational Licensing and Regulatory Fund (Fund 4K90).

**Veterans' law definition changes**

The bill establishes a common definition of "member," "veteran," and "armed forces" with respect to the recognition of state offered veterans rights related to: (1) recognition of military training toward the requirements of an occupational license,
(2) the grace period for occupational license renewal for veterans, (3) priority for referral to job openings and training opportunities, and (4) extension of continuing education reporting periods. This provision will have no direct fiscal effect on the state or any of its political subdivisions.

**Additional duties of the Director of Veterans Services**

The bill requires the Director of Veterans Services, not later than December 31, 2014, to: (1) develop and maintain a website that provides links to websites of licensing agencies, (2) encourage state agencies to perform outreach efforts through which veterans and their dependents learn about available job and education benefits, (3) inform state agencies about changes in statutes or rules affecting veterans and their dependents, and (4) assist licensing agencies in adopting rules determining which military training and experience satisfies licensing requirements. The Department of Veterans Services will experience a workload increase related to the new duties described above, the annual costs of which are likely to be no more than minimal.

**Veterans' priority for license applications**

The bill requires each licensing agency (as defined in R.C. 5903.01), not later than December 31, 2014, to adopt rules to: (1) establish and implement a process to obtain from each applicant documentation and additional information to determine if the applicant is a member or veteran of the armed forces, or the spouse or surviving spouse of a member or veteran, (2) record, track, and monitor these applications, and (3) prioritize or expedite certification and licensing for each such applicant. The bill requires a licensing agency to include, in the rules, special accommodations for applicants facing imminent deployment. Licensing agencies may experience a one-time increase in expenditures related to drafting and implementing the rules described above.

**Veterans' educational benefits – State Approving Agency**

The bill requires, by December 31, 2014, a state agency that issues a license, certificate, or other authorization permitting an individual to engage in an occupation or occupational activity to apply for approval to the State Approving Agency at the Ohio Department of Veterans Services. Such approval is required under federal law to enable an eligible person or veteran to receive education benefits through the United States Department of Veterans Affairs.

Those state agencies that are not currently registering with the State Approving Agency may experience a one-time administrative cost increase. The State Approving Agency, housed in the Department of Veterans Services, will likely experience a commensurate administrative cost increase in order to process the approvals.
Military service-related theft and fraud

The bill: (1) increases the penalties for theft, securing writings by deception, and identity fraud when the victim is an active duty service member or the spouse of an active duty service member, and (2) provides that a series of theft offenses or securing writings by deception offenses must be tried as a single offense. (Table 1 at the end of this document displays the proposed penalty enhancements included in the bill.) The bill also amends current law pertaining to civil actions filed by the victims of identity fraud.

According to the Office of the Attorney General, in 2013, the Federal Trade Commission received more than 22,000 identity fraud complaints from members of the military, with Ohio posting an increase in complaints of almost 20% from the prior year.

Local fiscal effects

The bill’s provisions related to the filing of civil actions are not expected to greatly impact the civil caseloads of common pleas, municipal, and county courts. The bill modifies the statute of limitations by changing it from the general limit of beginning at the time the criminal act occurred to the time that the criminal activity (identity fraud) was discovered, thus potentially creating the opportunity for some cases to proceed, when under current law, they might otherwise have been dismissed. Relative to overall caseloads however, this potential increase in caseloads would likely be negligible. Additionally, the bill modifies the damages that may be granted by the court.

The bill’s changes to the penalty structure for theft, securing writings by deception, and identity fraud of active duty service members and their spouses will not create any new crimes, nor is it likely to result in additional arrests or prosecutions. That said, the bill would affect existing cases handled by local criminal justice systems in the following two ways.

(1) Elevating misdemeanor cases to felony status

Identity fraud cases that would have been adjudicated as misdemeanors under current law will be elevated to the status of felonies, thus shifting such cases out of municipal and county courts into the more expensive felony component of county criminal justice systems. From the fiscal perspective of local governments, this elevation may simultaneously: (1) increase county criminal justice system expenditures related to investigating, prosecuting, adjudicating, and defending (if the offender is indigent) certain offenders, while decreasing analogous municipal criminal justice system expenditures, and (2) generate additional court cost and fine revenues for counties, while causing a loss in analogous municipal court cost and fine revenues.

While there is no readily available data tracking this type of caseload, it appears likely that the number of cases that will be affected in this manner will be relatively small in any affected local jurisdiction. As such, the resulting variations in annual
county and municipal criminal justice system expenditures and revenues for any affected local jurisdiction would likely be minimal.

(2) Enhancing certain felony cases

The bill elevates certain felony cases by one degree. It is possible that this penalty enhancement may actually accelerate the resolution of some felony cases, which potentially reduces county adjudication, prosecution, and indigent defense costs. It is equally possible that, as offenders are facing a more serious sanction, the resolution of some felony identity fraud cases may actually slow down as offenders seek to avoid prison or shorten the length of a potential prison sentence. Such an outcome could increase county adjudication, prosecution, and indigent defense costs. The net fiscal effect of these contrasting possibilities on county criminal justice system expenditures is likely to be minimal.

State fiscal effects

As a result of the bill’s penalty enhancements, additional offenders could be sentenced to prison and offenders who would have been sentenced to prison under current law will, in the future under similar circumstances, be sentenced to longer prison terms. Either outcome would minimally increase the Department of Rehabilitation and Correction’s (DRC) annual GRF-funded incarceration costs.

The elevation of certain misdemeanor cases to felony status also creates the possibility for the state to collect a minimal amount of additional court cost revenue annually. That revenue would be deposited to the credit of the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0).

Private employer veterans preference

The bill authorizes an employer to adopt a policy to provide a preference for employment decisions, including hiring, promotion, or retention during a reduction in force, to a member, veteran, or the spouse or surviving spouse of a member or veteran. The bill also requires the Ohio Department of Job and Family Services (ODJFS) to maintain a registry of employers that have a voluntary veterans preference employment policy and who have also reported that policy to ODJFS. This will result in an increase in costs for the Department to establish and maintain the registry. DVS is required to make the link to the registry available on their website, the cost of which will be diminutive.
### Table 1. Proposed Penalty Enhancements for Theft, Securing Writings by Deception, and Identity Fraud Where Protected Class is Active Duty Service Member or Spouse

<table>
<thead>
<tr>
<th>Offense</th>
<th>Current Penalty</th>
<th>Proposed Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Theft/Aggravated Theft (R.C. 2913.02)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Value of theft is less than $1,000</td>
<td>1st degree misdemeanor</td>
<td>5th degree felony</td>
</tr>
<tr>
<td>Value of theft is $1,000 or more but less than $7,500</td>
<td>5th degree felony</td>
<td>4th degree felony</td>
</tr>
<tr>
<td>Value of theft is $7,500 or more but less than $150,000</td>
<td>4th degree felony</td>
<td>3rd degree felony (less than $37,500)</td>
</tr>
<tr>
<td>Value of theft is $150,000 or more but less than $750,000</td>
<td>3rd degree felony</td>
<td>1st degree felony (less than $150,000)</td>
</tr>
<tr>
<td>Value of theft is $750,000 or more but less than $1 million</td>
<td>2nd degree felony</td>
<td></td>
</tr>
<tr>
<td>Value of theft is $1 million or more</td>
<td>1st degree felony</td>
<td></td>
</tr>
<tr>
<td><strong>Securing writings by deception (R.C. 2913.43)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Value of theft is less than $1,000</td>
<td>1st degree misdemeanor</td>
<td>5th degree felony</td>
</tr>
<tr>
<td>Value of theft is $1,000 or more but less than $7,500</td>
<td>5th degree felony</td>
<td>4th degree felony</td>
</tr>
<tr>
<td>Value of theft is $7,500 or more but less than $150,000</td>
<td>4th degree felony</td>
<td>3rd degree felony (less than $37,500)</td>
</tr>
<tr>
<td>Value of theft is $150,000 or more but less than $750,000</td>
<td>3rd degree felony</td>
<td>2nd degree felony (less than $37,500)</td>
</tr>
<tr>
<td>Value of theft is $750,000 or more but less than $1 million</td>
<td>2nd degree felony</td>
<td></td>
</tr>
<tr>
<td>Value of theft is $1 million or more</td>
<td>1st degree felony</td>
<td></td>
</tr>
<tr>
<td><strong>Identity Fraud (R.C. 2913.49)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Value of theft is less than $1,000</td>
<td>5th degree felony</td>
<td>4th degree felony</td>
</tr>
<tr>
<td>Value of theft is $1,000 or more but less than $7,500</td>
<td>4th degree felony</td>
<td>3rd degree felony</td>
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<tr>
<td>Value of theft is $7,500 or more but less than $150,000</td>
<td>3rd degree felony</td>
<td>2nd degree felony</td>
</tr>
<tr>
<td>Value of theft is $150,000 or more</td>
<td>2nd degree felony</td>
<td>1st degree felony</td>
</tr>
</tbody>
</table>

**State Teachers Retirement System (STRS) membership**

The bill modifies the definition of a "teacher" under the Revised Code, thereby providing that certain teachers who performed certain services to students attending nonpublic schools, without regard to whether the services are performed in a public school and whether the person is employed under a contract with a third party, are no longer excluded from STRS membership. This provision may increase costs related to retirement benefits for certain school districts. Currently, school districts contribute 14% of payroll into STRS. LSC does not have an estimate of the number of teachers affected, or of the costs to school districts.
SENATE ENROLLED ACT No. 331

AN ACT to amend the Indiana Code concerning higher education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 21-41-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 12. Second Service for Veterans
Sec. 1. As used in this chapter, "program" refers to the second service for veterans program established by section 3 of this chapter.
Sec. 2. As used in this chapter, "veteran student" refers to a student of a state educational institution who has been or is currently serving as a member of the:
   (1) armed forces; or
   (2) national guard.
Sec. 3. The second service for veterans program is established for the purpose of attracting veteran students to the teaching profession.
Sec. 4. Each school of education, or its equivalent, within a state educational institution shall establish a program for veteran students to encourage veteran students to pursue a career in the teaching profession.
Sec. 5. Each state educational institution shall, at a minimum, do the following:
   (1) Provide academic and career counseling specifically
designed for veteran students in the school of education or the school of education equivalent.

(2) Offer in-state tuition to:
   (A) Indiana resident veteran students; and
   (B) out-of-state veteran students in accordance with IC 21-14-12.2;
who apply for and are accepted into the program.

(3) Develop a proactive initiative to attract and recruit veteran students to the school of education or the school of education equivalent.

(4) Coordinate the second service for veterans program with the combat to college program.

Sec. 6. The commission for higher education may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. IC 21-42-7-2, AS ADDED BY P.L.57-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) Each state educational institution shall adopt a policy to award educational credit to an individual who:
   (1) is enrolled in a state educational institution; and
   (2) successfully:
   (A) completes courses that:
      (i) are part of the individual's military service;
      (ii) meet the standards of the American Council on Education, or the council's successor organization, for awarding academic credit; and
      (iii) meet the state educational institution's role, scope, and mission;
   (B) completes:
      (i) a College-Level Examination Program (CLEP) exam developed by the College Board and receives a score of fifty (50) or higher;
      (ii) a United States Department of Defense's Defense Activity for Non-Traditional Education Support Program examination; or
      (iii) an Excelsior College Examination;
      that meets the state educational institution's role, scope, and mission during the individual's military service in an active or reserve component of the armed forces of the United States or the Indiana National Guard or upon the individual's receiving an honorable discharge from the armed forces of the United States or the Indiana National Guard; or
(C) completes courses at a postsecondary educational institution accredited by a regional accrediting agency or association:

(i) during the individual's military service in an active or reserve component of the armed forces of the United States or the Indiana National Guard or upon the individual's receiving an honorable discharge from the armed forces of the United States or the Indiana National Guard; and

(ii) that meet the state educational institution's role, scope, and mission.

(b) The state educational institution's policy described in subsection (a) must provide that educational credit awarded to an individual under this section applies to the individual's undergraduate degree requirements if the credit is comparable and applicable, as reasonably determined by the state educational institution, to credit offered by the state educational institution and is necessary for the individual to meet the individual's undergraduate degree requirements at the state educational institution.

(c) Each state educational institution's policy described in subsection (a):

(1) shall be reviewed by the commission for higher education and subsequently published on the commission for higher education's Internet web site; and

(2) shall be published on the state educational institution's Internet web site.

(d) The amount of educational credits that may be applied to an individual's degree requirements under subsection (b) may not exceed:

(1) seventy-five percent (75%) of an individual's degree requirements, as determined by the state educational institution, if the state educational institution in which the individual is enrolled requires the individual to attend in person any course during any part of the student's enrollment at the state educational institution; or

(2) seventy percent (70%) of an individual's degree requirements, as determined by the state educational institution, if one hundred percent (100%) of the degree requirements for the degree program is available online by the state educational institution.
First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type. Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in this style type. Also, the word NEW will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution. Conflict reconciliation: Text in a statute in this style type or this style type reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1002

AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

SOURCE: IC 22-4.5-9; (13)HE1002.1.1. -->

SECTION 1. IC 22-4.5-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 9. Indiana Career Council
Sec. 1. As used in this chapter, "council" refers to the Indiana career council established by section 3 of this chapter.
Sec. 2. As used in this chapter, "system" refers to the Indiana workforce intelligence system established by IC 22-4.5-10-3.
Sec. 3. The Indiana career council is established.
Sec. 4. (a) The council shall do all of the following:
   (1) Provide coordination to align the various participants in the state's education, job skills development, and career training system.
   (2) Match the education and skills training provided by the state's education, job skills development, and career training system with the currently existing and future needs of the state's job market.
   (3) Provide administrative oversight of the system.
   (4) In addition to the department's annual report provided under IC 22-4-18-7, submit, not later than August 1, 2013, and
not later than August 1 each year thereafter, to the legislative council in an electronic format under IC 5-14-6 an inventory of current job and career training activities conducted by:

(A) state and local agencies; and

(B) whenever the information is readily available, private groups, associations, and other participants in the state's education, job skills development, and career training system.

The inventory must provide at least the information listed in IC 22-4-18-7(a)(1) through IC 22-4-18-7(a)(5) for each activity in the inventory.

(5) Submit, not later than July 1, 2014, to the legislative council in an electronic format under IC 5-14-6 a strategic plan to improve the state's education, job skills development, and career training system. The council shall submit, not later than December 1, 2013, to the legislative council in an electronic format under IC 5-14-6 a progress report concerning the development of the strategic plan. The strategic plan developed under this subdivision must include at least the following:

(A) Proposed changes, including recommended legislation and rules, to increase coordination, data sharing, and communication among the state, local, and private agencies, groups, and associations that are involved in education, job skills development, and career training.

(B) Proposed changes to make Indiana a leader in employment opportunities related to the fields of science, technology, engineering, and mathematics (commonly known as STEM).

(C) Proposed changes to address both:
   (i) the shortage of qualified workers for current employment opportunities; and
   (ii) the shortage of employment opportunities for individuals with a baccalaureate or more advanced degree.

(6) Coordinate the performance of its duties under this chapter with:

(A) the education roundtable established by IC 20-19-4-2; and

(B) the Indiana works councils established under SEA 465-2013.

(b) In performing its duties, the council shall obtain input from the following:

(1) Indiana employers and employer organizations.
(2) Public and private institutions of higher education.
(3) Regional and local economic development organizations.
(4) Indiana labor organizations.
(5) Individuals with expertise in career and technical education.
(6) Military and veterans organizations.
(7) Organizations representing women, African Americans, Latinos, and other significant minority populations and having an interest in issues of particular concern to these populations.
(8) Individuals and organizations with expertise in the logistics industry.
(9) Any other person or organization that a majority of the voting members of the council determine has information that is important for the council to consider.

Sec. 5. (a) The council consists of the following members:

(1) The governor.
(2) The lieutenant governor.
(3) The commissioner of the department of workforce development.
(4) The secretary of commerce.
(5) The state superintendent of public instruction.
(6) The commissioner of the commission for higher education.
(7) The secretary of the family and social services administration.
(8) The president of Ivy Tech Community College.
(9) One (1) member representing manufacturing in Indiana appointed by the governor.
(10) One (1) member representing the business community in Indiana appointed by the governor.
(11) One (1) member representing labor in Indiana appointed by the governor.
(12) One (1) member representing the life sciences industry appointed by the governor.
(13) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The individuals appointed under this subdivision:
   (A) may not be members of the same political party; and
   (B) serve as advisory nonvoting members of the council.
(14) Two (2) members of the senate appointed by the president pro tempore of the senate. The individuals appointed under this subdivision:
   (A) may not be members of the same political party; and
   (B) serve as advisory nonvoting members of the council.
   (b) If a vacancy on the council occurs, the person who appointed the member whose position is vacant shall appoint an individual to fill the vacancy using the criteria in subsection (a).
   (c) A member of the council appointed by the governor, the speaker of the house of representatives, or the president pro tempore of the senate serves at the pleasure of the appointing authority and may be replaced at any time by the appointing authority.
Sec. 6. (a) The governor shall serve as the chair of the council, and the lieutenant governor shall serve as the vice chair of the council.
   (b) The council:
      (1) shall meet monthly; and
      (2) may meet more frequently at the call of the chair.
   (c) The chair shall establish the agenda for each meeting of the council.
Sec. 7. (a) A majority of the voting members of the council constitutes a quorum for the purpose of conducting business.
   (b) The affirmative votes of a majority of the voting members of the council are necessary for the council to take official action.
Sec. 8. (a) Each member of the council who is not a state employee or is not a member of the general assembly is entitled to the following:
   (1) The salary per diem provided under IC 4-10-11-2.1(b).
   (2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
   (3) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the department of administration and approved by the budget agency.
   (b) Each member of the council who is a state employee but not a member of the general assembly is entitled to the following:
      (1) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
      (2) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the department of administration and approved by the budget agency.
   (c) Each member of the council who is a member of the general assembly is entitled to the same:
      (1) per diem;
paid to legislative members of interim study committees established by the legislative council. Per
diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations
made to the legislative services agency.

Sec. 9. The governor may request the assistance of any state agency, board, commission,
committee, department, division, or other entity of the executive department of state government as
necessary to provide staff and administrative support to the council and the system.

Sec. 10. This chapter expires July 1, 2018.

SOURCE: IC 22-4.5-10; (13)HE1002.1.2. -->  SECTION 2. IC 22-4.5-10 IS ADDED TO THE
INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 10. Indiana Workforce Intelligence System

Sec. 1. As used in this chapter, "council" refers to the Indiana career council established by IC 22-
4.5-9-3.

Sec. 2. As used in this chapter, "system" refers to the Indiana workforce intelligence system
established by section 3 of this chapter.

Sec. 3. The Indiana workforce intelligence system is established as a statewide longitudinal data
system that contains educational and workforce information:

(1) from educational institutions at all levels; and
(2) about the state's workforce;

to improve the effect of the state's educational delivery system on the economic opportunities of
individuals and the state's workforce, and to guide state and local decision makers.

Sec. 4. The system must do the following:

(1) Effectively organize, manage, break down, and analyze educational and workforce data.
(2) Generate timely and accurate information about student progress and outcomes over time,
including students' preparation for postsecondary education and the workforce.
(3) Generate timely and accurate information that is available to the public about the
effectiveness of the state's job training programs, including at least the following:
   (A) The number of participants in each program.
   (B) The number of participants who, as a result of the training received in the program:
      (i) secured employment; or
      (ii) were retained by an employer.
   (C) The average wage of the participants who secured employment or were retained by an
employer.
(4) Support the economic development activities of state and local governments.

Sec. 5. The department of education (established by IC 20-19-3-1), the department of workforce
development (established by IC 22-4.1-2-1), the commission for higher education (established by
IC 21-18-2-1), and other agencies of the state that collect data related to educational and workforce
outcomes shall submit that data to the system on a timely basis and shall ensure the following:

(1) Routine and ongoing compliance with the federal Family Educational Rights and Privacy Act
(20 U.S.C. 1232g) and other relevant privacy laws and policies, including the following:
   (A) The required use of data that cannot be used to identify information relating to a specific
individual or entity.
   (B) The required disposition of information that is no longer needed.
(C) The provision of a data security plan, including the performance of regular audits for compliance with data privacy and security standards.

(D) The implementation of guidelines and policies to prevent the reporting of other data that may potentially be used to identify information relating to a specific individual or entity.

(2) The use of data only in summary form in reports and responses to information requests. Data that may identify specific individuals or entities because of the size or uniqueness of the population involved may not be reported in any form.

Sec. 6. (a) The:

(1) council, before July 1, 2018; and
(2) governor, after June 30, 2018;

shall provide administrative oversight to the system.

(b) Administrative oversight of the system includes all the following:

(1) Provide general oversight and direction for the development and maintenance of the system.

(2) Approve an annual budget for the system.
(3) Hire staff necessary to administer the system.
(4) Develop a detailed data security and safeguarding plan that includes:
   (A) access by authenticated authorization;
   (B) privacy compliance standards;
   (C) notification and other procedures to protect system data if a breach of the system occurs;
and

   (D) policies for data retention and disposition.

(5) Oversee routine and ongoing compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and other relevant privacy laws and policies.

(6) Review research requirements and establish policies for responding to data requests from the state, local agencies, the general assembly, and the public.

(7) Oversee the development of public access to the system in a manner that:
   (A) permits research using the data in aggregated form; and
   (B) cannot provide information that allows the identification of a specific individual or entity.

(8) Identify additional sources of data for the system from among state entities and require those entities to submit relevant data to the system.

(c) Funding for the development, maintenance, and use of the system may be obtained from any of the following sources:

(1) Appropriations made by the general assembly for this purpose.
(2) Grants or other assistance from local educational agencies or institutions of higher education.
(3) Federal grants.
(4) User fees.
(5) Grants or amounts received from other public or private entities.

(d) The council (before July 1, 2018) and the governor (after June 30, 2018) may contract with public or private entities for the following purposes:

(1) To develop and maintain the system.
(2) To conduct research in support of the activities and objectives listed in section 4 of this chapter.
(3) To conduct research on topics at the request of the council,
the governor, or the general assembly.

SOURCE: ; (13)HE1002.1.3. --> SECTION 3. An emergency is declared for this act.

HEA 1002 _ Concur

Figure

Graphic file number 0 named seal1001.pcx with height 58 p and width 72 p Left aligned
It is enacted by the General Assembly as follows:

SECTION 1. Section 28-5-6 of the General Laws in Chapter 28-5 entitled "Fair Employment Practices" is hereby amended to read as follows:

28-5-6. Definitions. -- When used in this chapter:

(1) "Age" means anyone who is at least forty (40) years of age.

(2) "Because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions, and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in this chapter shall be interpreted to permit otherwise.

(3) "Commission" means the Rhode Island commission against discrimination created by this chapter.

(4) "Conviction", means, for the purposes of this chapter only, any verdict or finding of guilt after a criminal trial or any plea of guilty or nolo contendere to a criminal charge.

(5) "Disability" means a disability as defined in section 42-87-1.

(6) "Discriminate" includes segregate or separate.

(7) "Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person.

(8) "Employer" includes the state and all political subdivisions of the state and any
person in this state employing four (4) or more individuals, and any person acting in the interest
of an employer directly or indirectly.

(ii) Nothing in this subdivision shall be construed to apply to a religious corporation,
association, educational institution, or society with respect to the employment of individuals of its
religion to perform work connected with the carrying on of its activities.

(9) "Employment agency" includes any person undertaking with or without
compensation to procure opportunities to work, or to procure, recruit, refer, or place employees.

(8) "Firefighter" means an employee the duties of whose position includes work
connected with the control and extinguishment of fires or the maintenance and use of firefighting
apparatus and equipment, including an employee engaged in this activity who is transferred or
promoted to a supervisory or administrative position.

(10) "Gender identity or expression" includes a person's actual or perceived gender,
as well as a person's gender identity, gender-related self image, gender-related appearance, or
gender-related expression; whether or not that gender identity, gender-related self image, gender-
related appearance, or gender-related expression is different from that traditionally associated
with the person's sex at birth.

(11) "Labor organization" includes any organization which exists for the purpose, in
whole or in part, of collective bargaining or of dealing with employers concerning grievances,
terms or conditions of employment, or of other mutual aid or protection in relation to
employment.

(12) "Law enforcement officer" means an employee the duties of whose position
include investigation, apprehension, or detention of individuals suspected or convicted of
offenses against the criminal laws of the state, including an employee engaged in such activity
who is transferred or promoted to a supervisory or administrative position. For the purpose of this
subdivision, "detention" includes the duties of employees assigned to guard individuals
incarcerated in any penal institution.

(13) "Person" includes one or more individuals, partnerships, associations,
organizations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

(14) "Religion" includes all aspects of religious observance and practice, as well as
belief, unless an employer, union or employment agency demonstrates that it is unable to
reasonably accommodate to an employee's or prospective employee's or union member's religious
observance or practice without undue hardship on the conduct of its business.

(15) "Sexual orientation" means having or being perceived as having an orientation
for heterosexuality, bisexuality, or homosexuality. This definition is intended to describe the
status of persons and does not render lawful any conduct prohibited by the criminal laws of this
state nor impose any duty on a religious organization. This definition does not confer legislative
approval of that status, but is intended to assure the basic human rights of persons to obtain and
hold employment, regardless of that status.

The terms, as used regarding persons with disabilities:
(i) "Auxiliary aids and services" and "reasonable accommodation" shall have the same
meaning as those items are defined in section 42-87-1.1; and
(ii) "Hardship" means an "undue hardship" as defined in section 42-87-1.1.

SECTION 2. Section 28-5-7 of the General Laws in Chapter 28-5 entitled "Fair
Employment Practices" is hereby amended to read as follows:

28-5-7. Unlawful employment practices. -- It shall be an unlawful employment
practice:
(1) For any employer:
   (i) To refuse to hire any applicant for employment because of his or her race or color,
   religion, sex, sexual orientation, gender identity or expression, disability, age, or country of
   ancestral origin;
   (ii) Because of those reasons, to discharge an employee or discriminate against him or
   her with respect to hire, tenure, compensation, terms, conditions or privileges of employment, or
   any other matter directly or indirectly related to employment. However, if an insurer or employer
   extends insurance related benefits to persons other than or in addition to the named employee,
   nothing in this subdivision shall require those benefits to be offered to unmarried partners of
   named employees;
   (iii) In the recruiting of individuals for employment or in hiring them, to utilize any
   employment agency, placement service, training school or center, labor organization, or any other
   employee referring source which the employer knows, or has reasonable cause to know,
   discriminates against individuals because of their race or color, religion, sex, sexual orientation,
   gender identity or expression, disability, age, or country of ancestral origin;
   (iv) To refuse to reasonably accommodate an employee's or prospective employee's
   disability unless the employer can demonstrate that the accommodation would pose a hardship on
   the employer's program, enterprise, or business; or
   (v) When an employee has presented to the employer an internal complaint alleging
   harassment in the workplace on the basis of race or color, religion, sex, disability, age, sexual
   orientation, gender identity or expression, or country of ancestral origin, to refuse to disclose in a
timely manner in writing to that employee the disposition of the complaint, including a
(2) (i) For any employment agency to fail or refuse to properly classify or refer for employment or otherwise discriminate against any individual because of his or her race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin; or

(ii) For any employment agency, placement service, training school or center, labor organization, or any other employee referring source to comply with an employer's request for the referral of job applicants if the request indicates either directly or indirectly that the employer will not afford full and equal employment opportunities to individuals regardless of their race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin;

(3) For any labor organization:

(i) To deny full and equal membership rights to any applicant for membership because of his or her race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin;

(ii) Because of those reasons, to deny a member full and equal membership rights, expel him or her from membership, or otherwise discriminate in any manner against him or her with respect to his or her hire, tenure, compensation, terms, conditions or privileges of employment, or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of the labor organization or by a collective labor agreement or other contract;

(iii) To fail or refuse to classify properly or refer for employment, or otherwise to discriminate against any member because of his or her race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin; or

(iv) To refuse to reasonably accommodate a member's or prospective member's disability unless the labor organization can demonstrate that the accommodation would pose a hardship on the labor organization's program, enterprise, or business;

(4) Except where based on a bona fide occupational qualification certified by the commission or where necessary to comply with any federal mandated affirmative action programs, for any employer or employment agency, labor organization, placement service, training school or center, or any other employee referring source, prior to employment or admission to membership of any individual, to:

(i) Elicit or attempt to elicit any information directly or indirectly pertaining to his or her
race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin;

(ii) Make or keep a record of his or her race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin;

(iii) Use any form of application for employment, or personnel or membership blank containing questions or entries directly or indirectly pertaining to race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin;

(iv) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination based upon race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin; or

(v) Establish, announce, or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin of that group;

(5) For any employer or employment agency, labor organization, placement service, training school or center, or any other employee referring source to discriminate in any manner against any individual because he or she has opposed any practice forbidden by this chapter, or because he or she has made a charge, testified, or assisted in any manner in any investigation, proceeding, or hearing under this chapter;

(6) For any person, whether or not an employer, employment agency, labor organization, or employee, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be an unlawful employment practice, or to obstruct or prevent any person from complying with the provisions of this chapter or any order issued pursuant to this chapter, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful employment practice;

(7) For any employer to include on any application for employment, except applications for law enforcement agency positions or positions related to law enforcement agencies, a question inquiring or to otherwise inquire either orally or in writing whether the applicant has ever been arrested, or charged with or convicted of any crime; provided, that nothing in this subdivision shall prevent an employer from inquiring whether the applicant has ever been convicted of any crime;

(i) If a federal or state law or regulation creates a mandatory or presumptive disqualification from employment based on a person's conviction of one or more specified criminal offenses, an employer may include a question or otherwise inquire whether the applicant
has ever been convicted of any of those offenses; or

(ii) If a standard fidelity bond or an equivalent bond is required for the position for which
the applicant is seeking employment and his or her conviction of one or more specified criminal
offenses would disqualify the applicant from obtaining such a bond, an employer may include a
question or otherwise inquire whether the applicant has ever been convicted of any of those
offenses; and

(iii) Notwithstanding, any employer may ask an applicant for information about his or her
criminal convictions at the first interview or thereafter, in accordance with all applicable state and
federal laws.

(8)(i) For any person who, on June 7, 1988, is providing either by direct payment or by
making contributions to a fringe benefit fund or insurance program, benefits in violation with
sections 28-5-6, 28-5-7 and 28-5-38, until the expiration of a period of one year from June 7, 1988 or if there is an applicable collective bargaining agreement in effect on June 7, 1988, until
the termination of that agreement, in order to come into compliance with sections 28-5-6, 28-5-7
and 28-5-38, to reduce the benefits or the compensation provided any employee on June 7, 1988,
either directly or by failing to provide sufficient contributions to a fringe benefit fund or
insurance program.

(ii) Where the costs of these benefits on June 7, 1988 are apportioned between employers
and employees, the payments or contributions required to comply with sections 28-5-6, 28-5-7
and 28-5-38 may be made by employers and employees in the same proportion.

(iii) Nothing in this section shall prevent the readjustment of benefits or compensation
for reasons unrelated to compliance with sections 28-5-6, 28-5-7 and 28-5-38.

SECTION 3. This act shall take effect on January 1, 2014.
Reps. Barbieri, Baumbach, Bolden, Brady, Longhurst, Jaques,
Q. Johnson, Kowalko, Mitchell, Mulrooney, Osienski, Paradee,
Potter, Schwartzkopf, Scott, B. Short, K. Williams, D.E.
Williams; Sens. Henry, Marshall, McDowell, Peterson, Poore

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 167
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AS AMENDED
BY HOUSE AMENDMENT NO. 1 TO HOUSE
AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLES 19 AND 29 OF THE DELAWARE CODE WITH REGARD TO EMPLOYMENT PRACTICES.

WHEREAS, the incarceration rate of the United States has tripled since 1980 and is nearly eight times its historic average; and

WHEREAS, it is in the interest of the entire community that persons reentering society after incarceration become productive members of society, and the ability of these persons to obtain employment is key to their productivity; and

WHEREAS, research has shown that many individuals with prior criminal histories pose no greater risk of future criminality than do people with no criminal history and are equally qualified, reliable, and trustworthy candidates for employment; and

WHEREAS, lack of employment is a significant cause of recidivism, and people who are employed are significantly less likely to be re-arrested; and

WHEREAS, persons who have paid their debts to society deserve a fair chance at employment and this act is intended to give the individual with a criminal record an opportunity to be judged on his or her own merit during the submission of the application and at least until the completion of one interview; and

WHEREAS, at least 40 cities, 7 counties, and 7 states have passed ordinances and statutes or enacted policies to remove barriers to the employment of those with criminal histories; and
WHEREAS, it is the intent and purpose of this law to improve the economic viability, health, and security of Delaware communities and to assist people with conviction histories to reintegrate into the community and to provide for their families and themselves; and

WHEREAS, obstacles to employment for people with criminal records and other barriers to re-entry are creating permanent members of an underclass that threatens the health of the community and undermines public safety;

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 710, Title 19 of the Delaware Code by adding a new subsection (14) as shown by underlining as follows and redesignating current subsections (14) through (18) as (15) through (19) respectively:

(14) “Public employer” means the State of Delaware, its agencies, or political subdivisions.

Section 2. Amend Section 711, Title 19 of the Delaware Code by inserting a new subsection (g) as shown by underlining as follows and redesignating current subsections (g) through (k) as (h) through (l) respectively:

(g)(1) It shall be an unlawful employment practice for any public employer to inquire into or consider the criminal record, criminal history, credit history, or credit score of an applicant for employment during the initial application process, up to and including the first interview.

(2) If an applicant is otherwise qualified, a public employer may inquire into or consider an applicant’s criminal record, criminal history, credit history or credit score after the completion of the first interview.

(3) A public employer may disqualify an applicant from employment based on criminal history where the exclusion is job related for the position in question and consistent with business necessity. The public employer shall consider the following factors in its hiring decision:

(a) The nature and gravity of the offense or conduct;

(b) The time that has passed since the offense or conduct and/or the completion of the sentence; and

(c) The nature of the job held or sought.

(4) This subsection does not apply to any state, county or municipal police force, the Department of Correction, the Department of Justice, the Public Defender’s Office, the Courts, or any position where federal or state statute requires or expressly permits the consideration of an applicant’s criminal history.
Section 3. Amend Chapter 69, Title 29 of the Delaware Code by adding a new section 6909B as shown by underlining as follows:

6909B. Fair Background Check Practices.

The State shall include in all formal solicitations a section stating the State does not consider the criminal record, criminal history, credit history, or credit score of an applicant for State employment during the initial application process unless otherwise required by state and/or federal law, and vendors doing business with the State are encouraged to adopt similar policies.

Section 4. This Act becomes effective 180 days following its enactment into law.
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new
article, designated §5-11B-1, §5-11B-2, §5-11B-3, §5-11B-4, §5-11B-5, §5-11B-6 and
§5-11B-7, all relating to creating the Pregnant Workers’ Fairness Act; defining unlawful
employment practices; establishing remedies and enforcement for discriminatory conduct;
authorizing rule-making by the West Virginia Human Rights Commission; establishing
the relationship of the article to other laws; and requiring a report to the Joint Committee
on Government and Finance.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
article, designated §5-11B-1, §5-11B-2, §5-11B-3, §5-11B-4, §5-11B-5, §5-11B-6 and §5-11B-7,
all to read as follows:

ARTICLE 11B. PREGNANT WORKERS’ FAIRNESS ACT.

§5-11B-1. Short title.

This article may be cited as the Pregnant Workers Fairness Act.
§5-11B-2. Nondiscrimination with regard to reasonable accommodations related to pregnancy.

It shall be an unlawful employment practice for a covered entity to:

(1) Not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a job applicant or employee, following delivery by the applicant or employee of written documentation from the applicant’s or employee’s health care provider that specifies the applicant’s or employee’s limitations and suggesting what accommodations would address those limitations, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;

(2) Deny employment opportunities to a job applicant or employee, if such denial is based on the refusal of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of an employee or applicant;

(3) Require a job applicant or employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation that such applicant or employee chooses not to accept; or

(4) Require an employee to take leave under any leave law or policy of the covered entity if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of an employee.

§5-11B-3. Remedies and enforcement.

(a) The powers, procedures, and remedies provided in article eleven of this chapter to the Commission, the Attorney General, or any person, alleging a violation of the West Virginia
Human Rights Act shall be the powers, procedures, and remedies this article provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this article against an employee or job applicant.

(b) No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this article or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this article. The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

§5-11B-4. Rule-making.

Not later than two years after the date of enactment of this article, the Commission shall propose legislative rules in accordance with article three, chapter twenty-nine-A of this code, to carry out this article. Such rules shall identify some reasonable accommodations addressing known limitations related to pregnancy, childbirth, or related medical conditions that shall be provided to a job applicant or employee affected by such known limitations unless the covered entity can demonstrate that doing so would impose an undue hardship.

§5-11B-5. Definitions.

As used in this article:

(1) “Attorney General” means the West Virginia Attorney General;

(2) “Commission” means the West Virginia Human Rights Commission;

(3) “Covered entity” has the meaning given the word employer in section three, article eleven of this chapter;

(4) “Person” has the meaning given the word in section three, article eleven of this
chapter; and

(5) “Reasonable accommodation” and “undue hardship” have the meanings given those terms in section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111) and shall be construed as such terms have been construed under such Act and as set forth in the rules required by this article.

§5-11B-6. Relationship to other laws.

Nothing in this article shall be construed to invalidate or limit the remedies, rights, and procedures that provides greater or equal protection for workers affected by pregnancy, childbirth, or related medical conditions.

§5-11b-7. Reports.

The Commission shall annually on October 1 of each year report to the Joint Committee on Government and Finance on the number of complaints filed under this article during the pervious year and their resolution.
AN ACT relating to developed properties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39A.280 is amended to read as follows:

(1) Disaster and emergency response functions provided by a state or local emergency management agency, or any emergency management agency-supervised operating units or personnel officially affiliated with a local disaster and emergency services organization pursuant to KRS 39B.070, shall not, in itself, be deemed to be the making of a promise, or the undertaking of a special duty, towards any person for the services, or any particular level of, or manner of providing, the services; nor shall the provision of or failure to provide these services be deemed to create a special relationship or duty towards any person upon which an action in negligence or other tort might be founded. Specifically:

(a) The failure to respond to a disaster or other emergency, or to undertake particular inspections or types of inspections, or to maintain any particular level of personnel, equipment, or facilities, shall not be a breach of any duty to persons affected by any disaster or other emergency.

(b) When a state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization, does undertake to respond to a disaster or other emergency, the failure to provide the same level or manner of service, or equivalent availability or allocation of resources as may or could be provided, shall not be a breach of any duty to persons affected by that disaster or other emergency.

(c) A state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization shall not have or assume any duty towards any person to adopt, use, or avoid any particular strategy or
tactic in responding to a disaster or other emergency.

(d) A state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization, in undertaking disaster and emergency preparedness or prevention activities including inspections, or in undertaking to respond to a disaster or other emergency, shall not have voluntarily assumed any special duty with respect to any risks which were not created or caused by it, nor with respect to any risks which might have existed even in the absence of that activity or response, nor shall any person have a right to rely on such an assumption of duty.

(2) Neither the state nor any political subdivision of the state, nor the agents or representatives of the state or any of its political subdivisions, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer emergency management agency member, or disaster and emergency services member, or disaster and emergency response worker, or member of any agency engaged in any emergency management or disaster and emergency services or disaster and emergency response activity. The immunity provided by this subsection shall not apply to the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or an organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection. This immunity shall not affect the right of any person to receive benefits or compensation to which the person might otherwise be entitled under the Workers' Compensation Law, or this chapter, or any pension law, or any Act of Congress.

(3) Subject to subsection (6) of this section, neither the state nor any political
subdivision of the state nor, except in cases of willful misconduct, gross negligence, or bad faith, the employees, agents, or representatives of the state or any of its political divisions, nor any volunteer or auxiliary emergency management agency or disaster and emergency services organization member or disaster and emergency response worker or member of any agency engaged in any emergency management or disaster and emergency services or disaster and emergency response activity, complying with or reasonably attempting to comply with this chapter or any order or administrative regulation promulgated pursuant to the provisions of this chapter, or other precautionary measures enacted by any city of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of that activity. The immunity provided by this subsection shall not apply to the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or an organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection.

(4) Decisions of the director, his subordinates or employees, a local emergency management director, or the local director's subordinates or employees, a rescue chief or the chief's subordinates, concerning the allocation and assignment of personnel and equipment, and the strategies and tactics used, shall be the exercise of a discretionary, policy function for which neither the officer nor the state, county, urban-county, charter county, or city, or local emergency management agency-supervised operating unit formally affiliated with a local disaster and emergency services organization, shall be held liable in the absence of malice or bad faith, even when those decisions are made rapidly in response to the exigencies of an emergency.
(5) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part of the real estate or premises for the purpose of sheltering persons during an actual, impending, mock, or practice disaster or emergency, together with his or her successors in interest, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about the real estate or premises for loss of, or damage to, the property of that person. The immunity provided by this subsection shall not apply to the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection.

(6) Subsection (3) of this section shall apply to a volunteer or auxiliary disaster and emergency response worker only if the volunteer or worker is enrolled or registered with a local disaster and emergency services organization or with the division in accordance with the division's administrative regulations.

(7) While engaged in disaster and emergency response activity, volunteers and auxiliary disaster and emergency response workers enrolled or registered with a local disaster and emergency service organization or with the division in accordance with subsection (6) of this section shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its political subdivisions performing similar work, including the provisions of KRS 12.211, 12.212, and 12.215, allowing the Attorney General to provide defense of any civil action brought against a volunteer enrolled or registered with a local disaster or emergency service organization or with the division due to an act or
omission made in the scope and course of a disaster and emergency response activity.

(8) (a) Notwithstanding subsections (3) and (6) of this section, a licensed professional engineer as defined in KRS 322.010 or an architect licensed under KRS Chapter 323, who voluntarily and without compensation provides architectural, structural, electrical, mechanical, or other professional services at the scene of a declared emergency, disaster, or catastrophe, shall not be liable for any personal injury, wrongful death, property damage, or other loss of any nature related to the licensed professional engineer's or licensed architect's acts, errors, or omissions in the performance of the services carried out:

1. At the request of or with the approval of a federal, state, or local:
   a. Emergency management agency official with executive responsibility in the jurisdiction to coordinate disaster and emergency response activity;
   b. Fire chief or his or her designee; or
   c. Building inspection official;
   who the licensed professional engineer or licensed architect believes to be acting in an official capacity;

2. Within ninety (90) days following the end of the period for the declared emergency, disaster, or catastrophe, unless extended by the Governor under KRS 39A.100; and

3. If the professional services arose out of the declared emergency, disaster, or catastrophe and if the licensed professional engineer or licensed architect acted as an ordinary reasonably prudent member of the profession would have acted under the same or similar circumstances.
(b) **Nothing in this subsection shall provide immunity for wanton, willful, or intentional misconduct.**

Section 2. KRS 154.26-010 is amended to read as follows:

As used in this subchapter, unless the context clearly indicates otherwise:

1. "Agreement" means a revitalization agreement entered into, pursuant to KRS 154.26-090, on behalf of the authority and an approved company with respect to an economic revitalization project;

2. "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

3. "Appropriation agreement" means an agreement entered into, pursuant to KRS 154.26-090(1)(f)2., among the approved company, the authority, and local governmental entities with respect to appropriations by these local governmental entities for the benefit of the approved company;

4. "Approved company" means any eligible company approved by the authority pursuant to KRS 154.26-080 requiring an economic revitalization project;

5. "Approved costs" means:
   
   a. Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;
   b. The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
   c. All costs of architectural and engineering services, including estimates, plans
LONG TITLE

General Description:

This bill amends Title 54, Public Utilities.

Highlighted Provisions:

This bill:

- provides that the definitions of "electrical corporation" and "public utility" do not include certain entities that sell electric vehicle battery charging services.

Money Appropriated in this Bill:

None
Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-2-1 is amended to read:

54-2-1. Definitions.

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

(3) "Commission" means the Public Service Commission of Utah.

(4) "Commissioner" means a member of the commission.

(5) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(6) "Distribution electrical cooperative" includes an electrical corporation that:
57    (a) is a cooperative;
58    (b) conducts a business that includes the retail distribution of electricity the cooperative
59    purchases or generates for the cooperative's members; and
60    (c) is required to allocate or distribute savings in excess of additions to reserves and
61    surplus on the basis of patronage to the cooperative's:
62    (i) members; or
63    (ii) patrons.
64    (7) (a) "Electrical corporation" includes every corporation, cooperative association, and
65    person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any
66    electric plant, or in any way furnishing electric power for public service or to its consumers or
67    members for domestic, commercial, or industrial use, within this state, except independent
68    energy producers, and except where electricity is generated on or distributed by the producer
69    solely for the producer's own use, or the use of the producer's tenants, or for the use of
70    members of an association of unit owners formed under Title 57, Chapter 8, Condominium
71    Ownership Act, and not for sale to the public generally, and except where the electricity
72    generated is consumed by an owner, lessor, or interest holder, or by an affiliate of an owner,
73    lessor, or interest holder, who has provided at least $25,000,000 in value, including credit
74    support, relating to the electric plant furnishing the electricity and whose consumption does not
75    exceed its long-term entitlement in the plant under a long-term arrangement other than a power
76    purchase agreement, except a power purchase agreement with an electrical corporation.
77    (b) "Electrical corporation" does not include an entity that sells electric vehicle battery
78    charging services, unless the entity conducts another activity in the state that subjects the entity
79    to the jurisdiction and regulation of the commission as an electrical corporation.
80    (8) "Electric plant" includes all real estate, fixtures, and personal property owned,
81    controlled, operated, or managed in connection with or to facilitate the production, generation,
82    transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits,
83    ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying
84    conductors used or to be used for the transmission of electricity for light, heat, or power.
(9) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.

(10) "Gas plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

(11) "Heat corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.

(12) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) "Heating plant" does not include either small power production facilities or cogeneration facilities.

(13) "Independent energy producer" means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

(14) "Independent power production facility" means a facility that:
(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

(15) "Private telecommunications system" includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

(16) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Subsection (16)(d), where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Subsection (16)(d), performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Subsection (16)(d), or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as
defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) An independent energy producer is exempt from the jurisdiction and regulations of the commission with respect to an independent power production facility if it meets the requirements of Subsection (16)(d)(i), (ii), (iii), or (iv), or any combination of these:

(i) the commodity or service is produced or delivered, or both, by an independent energy producer solely for the uses exempted in Subsection (7) or for the use of state-owned facilities;

(ii) the commodity or service is sold by an independent energy producer solely to an electrical corporation or other wholesale purchaser;

(iii) (A) the commodity or service produced or delivered by the independent energy producer is delivered to an entity that controls, is controlled by, or affiliated with the independent energy producer or to a user located on real property managed or controlled by the independent energy producer; and

(B) the real property on which the service or commodity is used is contiguous to real property which is owned or controlled by the independent energy producer. Parcels of real property separated solely by public roads or easements for public roads shall be considered as contiguous for purposes of this Subsection (16); or

(iv) the independent energy producer:

(A) supplies energy for direct consumption by a customer that is:

(I) a county, municipality, city, town, other political subdivision, local district, special service district, state institution of higher education, school district, charter school, or any entity within the state system of public education; or

(II) an entity qualifying as a charitable organization under 26 U.S.C. Sec. 501(c)(3) operated for religious, charitable, or educational purposes that is exempt from federal income tax and able to demonstrate its tax-exempt status;

(B) supplies energy to the customer through use of a customer generation system, as
defined in Section 54-15-102, for use on the real property where the customer generation
system is located;

(C) supplies energy using a customer generation system designed to supply the lesser
of:

(I) no more than 90% of the average annual consumption of electricity by the customer
at that site, based on an annualized billing period; or

(II) the maximum size allowable under net metering provisions, defined in Section
54-15-102;

(D) notifies the customer before installing the customer generation system of:

(I) all costs the customer is required to pay for the customer generation system,

including any interconnection costs; and

(II) the potential for future changes in amounts paid by the customer for energy
received from the public utility and the possibility of changes to the customer fees or charges to
the customer associated with net metering and generation;

(E) enters into and performs in accordance with an interconnection agreement with a
public utility providing retail electric service where the real property on which the customer
generation system is located, with the rates, terms, and conditions of the retail service and
interconnection agreement subject to approval by the governing authority of the public utility,
as defined in Subsection 54-15-102(8); and

(F) installs the relevant customer generation system by December 31, 2015.

(e) Any person or corporation defined as an electrical corporation or public utility
under this section may continue to serve its existing customers subject to any order or future
determination of the commission in reference to the right to serve those customers.

(f) (i) "Public utility" does not include any person that is otherwise considered a public
utility under this Subsection (16) solely because of that person's ownership of an interest in an
electric plant, cogeneration facility, or small power production facility in this state if all of the
following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power
production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections (16)(f)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection (16)(f)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or
determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection (16)(f)(i) shall continue to be so exempt from classification following termination of the lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(g) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financer of an electric plant, small power production facility, or cogeneration facility, then that third-party financer is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(h) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel
(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

(i) "Public utility" does not include any corporation, cooperative association, or person, their affiliates, lessees, trustees, or receivers, owning, controlling, operating, or managing an electric plant or in any way furnishing electricity if the electricity is consumed by an owner, lessor, or interest holder or by an affiliate of an owner, lessor, or interest holder, who has provided at least $25,000,000 in value, including credit support, relating to the electric plant furnishing the electricity and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation.

(j) "Public utility" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.

(17) "Purchasing utility" means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Section 824a-3.

(18) "Qualifying power producer" means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

(19) "Qualifying power production facility" means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding
253 sources;
254 (b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and
256 (c) is a qualifying small power production facility under federal law.
257 (20) "Railroad" includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.
263 (21) "Railroad corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.
266 (22) (a) "Sewerage corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.
269 (b) "Sewerage corporation" does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.
273 (23) "Telegraph corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.
276 (24) "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.
280 (25) (a) "Telephone corporation" means any corporation or person, and their lessees,
trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) "Telephone corporation" does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

(26) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

(27) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person's baggage.

(28) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

(29) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(30) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates,
pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal
property owned, controlled, operated, or managed in connection with or to facilitate the
diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment,
apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or
manufacturing, or for municipal, domestic, or other beneficial use.
(b) "Water system" does not include private irrigation companies engaged in
distributing water only to their stockholders.
(31) "Wholesale electrical cooperative" includes every electrical corporation that is:
(a) in the business of the wholesale distribution of electricity it has purchased or
generated to its members and the public; and
(b) required to distribute or allocate savings in excess of additions to reserves and
surplus to members or patrons on the basis of patronage.
An Act to amend and reenact §§ 46.2-342 and 46.2-345 of the Code of Virginia, relating to designation on driver's licenses and special identification cards of intellectual disability or autism spectrum disorder.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-342 and 46.2-345 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-342. What license to contain; organ donor information; Uniform Donor Document.
A. Every license issued under this chapter shall bear:
1. For licenses issued or renewed on or after July 1, 2003, a license number which shall be assigned by the Department to the licensee and shall not be the same as the licensee's social security number;
2. A photograph of the licensee;
3. The licensee's full name, year, month, and date of birth;
4. The licensee's address, subject to the provisions of subsection B of this section;
5. A brief description of the licensee for the purpose of identification;
6. A space for the signature of the licensee; and
7. Any other information deemed necessary by the Commissioner for the administration of this title.

No abbreviated names or nicknames shall be shown on any license.

B. At the option of the licensee, the address shown on the license may be either the post office box, business, or residence address of the licensee, provided such address is located in Virginia. However, regardless of which address is shown on the license, the licensee shall supply the Department with his residence address, which shall be an address in Virginia. This residence address shall be maintained in the Department's records. Whenever the licensee's address shown either on his license or in the Department's records changes, he shall notify the Department of such change as required by § 46.2-324.

C. The Department may contract with the United States Postal Service or an authorized agent to use the National Change of Address System for the purpose of obtaining current address information for a person whose name appears in customer records maintained by the Department. If the Department receives information from the National Change of Address System indicating that a person whose name appears in a Department record has submitted a permanent change of address to the Postal Service, the Department may then update its records with the mailing address obtained from the National Change of Address System.

D. The license shall be made of a material and in a form to be determined by the Commissioner.

E. Licenses issued to persons less than 21 years old shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year when the person will become 21 years old.

F. The Department shall establish a method by which an applicant for a driver's license or an identification card may designate his willingness to make an anatomical gift for transplantation, therapy, research, and education as provided in Article 2 (§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1 and shall cooperate with the Virginia Transplant Council to ensure that such method is designed to encourage organ, tissue, and eye donation with a minimum of effort on the part of the donor and the Department.

G. If an applicant designates his willingness to be a donor pursuant to subsection F, the Department may make a notation of this designation on his license or card and shall make a notation of this designation in his driver record.

H. The donor designation authorized in subsection G shall be sufficient legal authority for the removal, following death, of the subject's organs or tissues without additional authority from the donor, or his family or estate. No family member, guardian, agent named pursuant to an advance directive or person responsible for the decedent's estate shall refuse to honor the donor designation or, in any way, seek to avoid honoring the donor designation.

I. The donor designation provided pursuant to subsection F may be rescinded by notifying the Department. In addition, the Department shall remove from the driver's license or identification card any donor designation made pursuant to subsection F, if, at the time the applicant renews or replaces the license or identification card, the applicant does not again designate his willingness to be a donor pursuant to subsection F.

J. A minor may make a donor designation pursuant to subsection F without the consent of a parent
or legal guardian as authorized by the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.).

K. The Department shall provide a method by which an applicant conducting a Department of Motor Vehicles transaction using electronic means may make a voluntary contribution to the Virginia Donor Registry and Public Awareness Fund (Fund) established pursuant to § 32.1-297.1. The Department shall inform the applicant of the existence of the Fund and also that contributing to the Fund is voluntary.

L. The Department shall collect all moneys contributed pursuant to subsection K and transmit the moneys on a regular basis to the Virginia Transplant Council, which shall credit the contributions to the Fund.

M. When requested by the applicant, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's driver's license that the applicant is (i) is an insulin-dependent diabetic, or (ii) is hearing or speech impaired, or (iii) has an intellectual disability, as defined in § 37.2-100, or autism spectrum disorder, as defined in § 38.2-3418.17.

N. In the absence of gross negligence or willful misconduct, the Department and its employees shall be immune from any civil or criminal liability in connection with the making of or failure to make a notation of donor designation on any license or card or in any person's driver record.

O. Notwithstanding the foregoing provisions of this section, the Department shall continue to use the uniform donor document, as formerly set forth in subsection F, for organ donation designation until such time as a new method is fully implemented, which shall be no later than July 1, 1994. Any such uniform donor document shall, when properly executed, remain valid and shall continue to be subject to all conditions for execution, delivery, amendment, and revocation as set out in Article 2 (§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1.

P. The Department shall, in coordination with the Virginia Transplant Council, prepare an organ donor information brochure describing the organ donor program and providing instructions for completion of the uniform donor document information describing the bone marrow donation program and instructions for registration in the National Bone Marrow Registry. The Department shall include a copy of such brochure with every driver's license renewal notice or application mailed to licensed drivers in Virginia.

§ 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.

A. On the application of any person who is a resident of the Commonwealth or the parent or legal guardian of any such person who is under the age of 15, the Department shall issue a special identification card to the person provided:

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address;

2. The applicant presents, when required by the Department, proof of identity, legal presence, residency, and social security number or non-work authorized status;

3. The Department is satisfied that the applicant needs an identification card or the applicant shows he has a bona fide need for such a card; and

4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit.

Persons 70 years of age or older may exchange a valid Virginia driver's license for a special identification card at no fee. Special identification cards subsequently issued to such persons shall be subject to the regular fees for special identification cards.

B. The fee for the issuance of an original or renewal special identification card is $5. The fee for the issuance of a duplicate or reissue of a special identification card is $5. Persons 21 years old or older may be issued a scenic special identification card for an additional fee of $5.

C. Every special identification card shall expire on the last day of the month of birth of the applicant in years in which the applicant attains an age exactly divisible by five. At no time shall any special identification card be issued for less than three nor more than seven years, except under the provisions of subsection B of § 46.2-328.1 and except that those cards issued to children under the age of 15 shall expire on the child's sixteenth birthday, thereafter the special identification card may be renewed on or before the last day of the month of birth of the applicant and shall be valid for five years, expiring in the next year in which the applicant's age is exactly divisible by five, except under the provisions of subsection B of § 46.2-328.1. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for renewal due to circumstances beyond its control, (ii) the extension has been authorized under a directive from the Governor, and (iii) the card was not issued as a temporary special identification card under the provisions of subsection B of § 46.2-328.1. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions.

D. A special identification card issued under this section may be similar in size, shape, and design to a driver's license, and include a photograph of its holder, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for a special identification card shall appear in person before the Department to apply for a renewal, duplicate or reissue unless specifically permitted by the
Department to apply in another manner.

E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year when the person will become 21 years old.

F. Special identification cards for persons under age 15 shall bear a full face photograph. The special identification card issued to persons under age 15 shall be readily distinguishable from a driver's license and from other special identification cards issued by the Department. Such cards shall clearly indicate that it does not authorize the person to whom it is issued to drive a motor vehicle.

G. Unless otherwise prohibited by law, a valid Virginia driver's license may be surrendered for a special identification card without the applicant's having to present proof of legal presence as required by § 46.2-328.1 if the Virginia driver's license is unexpired and it has not been revoked, suspended, or cancelled. The special identification card shall be considered a reissue and the expiration date shall be the last day of the month of the surrendered driver's license's month of expiration.

H. Any personal information, as identified in § 2.2-3801, which is retained by the Department from an application for the issuance of a special identification card is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

I. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for an identification card or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However, where the name or address is given, or false statement is made, or fact is concealed, or fraud committed, with the intent to purchase a firearm or where the identification card is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

J. The Department may promulgate regulations necessary for the effective implementation of the provisions of this section.

K. The Department shall utilize the various communications media throughout the Commonwealth to inform Virginia residents of the provisions of this section and to promote and encourage the public to take advantage of its provisions.

L. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person made application for the special identification card.

M. When requested by the applicant, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's special identification card that the applicant has any condition listed in subsection M of § 46.2-342.
AN ACT relating to the operation of mini-trucks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

⇒ SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "mini-truck" means a lightweight Japanese kei class utility vehicle.

(2) Except as provided in subsection (5) of this section, a person shall not operate a mini-truck upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(3) A person shall not operate a mini-truck on private property without the consent of the landowner, tenant, or individual responsible for the property.

(4) A person shall not operate a mini-truck on public property unless the governmental agency responsible for the property has approved the use of mini-trucks.

(5) (a) A person may operate a mini-truck on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.

(b) A person may operate a mini-truck on any two (2) lane public highway if the operator is engaged in farm or agricultural-related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where mini-trucks that are prohibited may be operated.

(d) A person operating a mini-truck on a public highway under this subsection
shall possess a valid operator's license.

(e) A person operating a mini-truck on a public highway under this subsection shall comply with all applicable traffic regulations.

(f) A person shall not operate a mini-truck under this subsection unless the mini-truck has at least two (2) headlights and two (2) taillights, which shall be illuminated at all times the mini-truck is in operation.

(g) A person operating a mini-truck under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.
Enrolled

Senate Bill 810

Sponsored by Senator HANSELL; Senators BEYER, GEORGE, JOHNSON, KRUSE, MONROE, STARR, THOMSEN, WINTERS

AN ACT

Relating to transportation; creating new provisions; amending ORS 271.310, 305.410, 319.280, 319.550, 319.665, 319.831, 366.505, 367.802, 367.804 and 367.806; limiting expenditures; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

DEFINITIONS

SECTION 1. Sections 2 to 15 of this 2013 Act are added to and made a part of ORS chapter 319.

SECTION 2. As used in sections 2 to 15 of this 2013 Act:

(1) “Highway” has the meaning given that term in ORS 801.305.

(2) “Lessee” means a person that leases a motor vehicle that is required to be registered in Oregon.

(3)(a) “Motor vehicle” has the meaning given that term in ORS 801.360.

(b) “Motor vehicle” does not mean a motor vehicle designed to travel with fewer than four wheels in contact with the ground.

(4) “Registered owner” means a person, other than a vehicle dealer that holds a certificate issued under ORS 822.020, that is required to register a motor vehicle in Oregon.

(5) “Subject vehicle” means a motor vehicle that is the subject of an application approved pursuant to section 4 of this 2013 Act.

ROAD USAGE CHARGES

SECTION 3. (1)(a) Except as provided in paragraph (b) of this subsection, the registered owner of a subject vehicle shall pay a per-mile road usage charge for metered use by the subject vehicle of the highways in Oregon.

(b) During the term of a lease, the lessee of a subject vehicle shall pay the per-mile road usage charge for metered use by the subject vehicle of the highways in Oregon.

(2) The per-mile road usage charge is 1.5 cents per mile.

SECTION 4. (1) A person wishing to pay the per-mile road usage charge imposed under section 3 of this 2013 Act must apply to the Department of Transportation on a form prescribed by the department.
(2) The department shall approve a valid and complete application submitted under this section if:
   (a) The applicant is the registered owner or lessee of a motor vehicle;
   (b) The motor vehicle is equipped with a method selected pursuant to section 6 of this 2013 Act for collecting and reporting the metered use by the motor vehicle of the highways in Oregon;
   (c) The motor vehicle has a gross vehicle weight rating of 10,000 pounds or less; and
   (d) Approval does not cause the number of subject vehicles active in the road usage charge program on the date of approval to exceed 5,000, of which no more than 1,500 may have a rating of less than 17 miles per gallon and no more than 1,500 may have a rating of at least 17 miles per gallon and less than 22 miles per gallon, such ratings to be determined pursuant to a method established by the department.

(3) Approval of an application under this section subjects the applicant to the requirements of section 10 of this 2013 Act until the person ends the person's voluntary participation in the road usage charge program in the manner required under subsection (4) of this section.

(4) A person may end the person's voluntary participation in the road usage charge program at any time by notifying the department, returning the emblem issued under section 15 of this 2013 Act to the department and paying any outstanding amount of road usage charge for metered use by the person's subject vehicle.

REVENUE

SECTION 5. Moneys collected from the road usage charges imposed under section 3 of this 2013 Act shall be deposited in the State Highway Fund and allocated for distribution as follows:
   (1) 50 percent to the Department of Transportation.
   (2) 30 percent to counties for distribution as provided in ORS 366.762.
   (3) 20 percent to cities for distribution as provided in ORS 366.800.

ADMINISTRATION

SECTION 6. (1) As used in this section, “open system” means an integrated system based on common standards and an operating system that has been made public so that components performing the same function can be readily substituted or provided by multiple providers.

(2)(a) The Department of Transportation, in consultation with the Road User Fee Task Force, shall establish the methods for recording and reporting the number of miles that subject vehicles travel on highways.
   (b) When taking action under this subsection, the department shall consider:
      (A) The accuracy of the data collected;
      (B) Privacy options for persons liable for the per-mile road usage charge;
      (C) The security of the technology;
      (D) The resistance of the technology to tampering;
      (E) The ability to audit compliance; and
      (F) Other relevant factors that the department deems important.
   (c) The department shall establish at least one method of collecting and reporting the number of miles traveled by a subject vehicle that does not use vehicle location technology.
   (d)(A) The department shall adopt standards for open system technology used in methods established under this subsection.
(B) In adopting standards pursuant to this paragraph, the department shall collaborate with agencies of the executive department as defined in ORS 174.112 to integrate information systems currently in use or planned for future use.

(3) The department shall provide the persons liable for the per-mile road usage charge the opportunity to select a method from among multiple options for collecting and reporting the metered use by a subject vehicle of the highways in Oregon.

SECTION 7. The Department of Transportation shall provide by rule for the collection of the road usage charges imposed under section 3 of this 2013 Act, including penalties and interest imposed on delinquent charges.

SECTION 8. (1) The Department of Transportation shall establish by rule reporting periods for the road usage charges imposed under section 3 of this 2013 Act.

(2) Reporting periods established under this section may vary according to the facts and circumstances applicable to classes of registered owners, lessees and subject vehicles.

(3) In establishing reporting periods, the department shall consider:

(a) The effort required by registered owners or lessees to report metered use and to pay the per-mile road usage charge;
(b) The amount of the per-mile road usage charge owed;
(c) The cost to the registered owner or lessee of reporting metered use and of paying the per-mile road usage charge;
(d) The administrative cost to the department; and
(e) Other relevant factors that the department deems important.

SECTION 9. (1) As used in this section:

(a) “Certified service provider” means an entity that has entered into an agreement with the Department of Transportation under ORS 367.806 for reporting metered use by a subject vehicle or for administrative services related to the collection of per-mile road usage charges and authorized employees of the entity.

(b) “Personally identifiable information” means any information that identifies or describes a person, including, but not limited to, the person’s travel pattern data, per-mile road usage charge account number, address, telephone number, electronic mail address, driver license or identification card number, registration plate number, photograph, recorded images, bank account information and credit card number.

(c) “VIN summary report” means a monthly report by the department or a certified service provider that includes a summary of all vehicle identification numbers of subject vehicles and associated total metered use during the month. The report may not include location information.

(2) Except as provided in subsections (3) and (4) of this section, personally identifiable information used for reporting metered use or for administrative services related to the collection of the per-mile road usage charge imposed under section 3 of this 2013 Act is confidential within the meaning of ORS 192.502 (9)(a) and is a public record exempt from disclosure under ORS 192.410 to 192.505.

(3)(a) The department, a certified service provider or a contractor for a certified service provider may not disclose personally identifiable information used or developed for reporting metered use by a subject vehicle or for administrative services related to the collection of per-mile road usage charges to any person except:

(A) The registered owner or lessee;
(B) A financial institution, for the purpose of collecting per-mile road usage charges owed;
(C) Employees of the department;
(D) A certified service provider;
(E) A contractor for a certified service provider, but only to the extent the contractor provides services directly related to the certified service provider’s agreement with the department;
(F) An entity expressly approved to receive the information by the registered owner or lessee of the subject vehicle; or

(G) A police officer pursuant to a valid court order based on probable cause and issued at the request of a federal, state or local law enforcement agency in an authorized criminal investigation involving a person to whom the requested information pertains.

(b) Disclosure under paragraph (a) of this subsection is limited to personally identifiable information necessary to the respective recipient's function under sections 2 to 15 of this 2013 Act.

(4)(a) Not later than 30 days after completion of payment processing, dispute resolution for a single reporting period or a noncompliance investigation, whichever is latest, the department and certified service providers shall destroy records of the location and daily metered use of subject vehicles.

(b) Notwithstanding paragraph (a) of this subsection:

(A) For purposes of traffic management and research, the department and certified service providers may retain, aggregate and use information in the records after removing personally identifiable information.

(B) A certified service provider may retain the records if the registered owner or lessee consents to the retention. Consent under this subparagraph does not entitle the department to obtain or use the records or the information contained in the records.

(C) Monthly summaries of metered use by subject vehicles may be retained in VIN summary reports by the department and certified service providers.

(5) The department, in any agreement with a certified service provider, shall provide for penalties if the certified service provider violates this section.

SECTION 10. (1) On a date determined by the Department of Transportation under section 8 of this 2013 Act, the registered owner or lessee of a subject vehicle shall report the metered use by the subject vehicle, rounded up to the next whole mile, and pay to the department the per-mile road usage charge due under section 3 of this 2013 Act for the reporting period.

(2) Unless a registered owner or lessee presents evidence in a manner approved by the department by rule that the subject vehicle has been driven outside this state, the department shall assume that all metered use reported represents miles driven by the subject vehicle on the highways in Oregon.

REFUNDS AND EXEMPTIONS

SECTION 11. (1) The Department of Transportation shall provide a refund to a registered owner or lessee that has overpaid the per-mile road usage charge imposed under section 3 of this 2013 Act.

(2) The department may provide by rule that the refund under this section be granted as a credit against future per-mile road usage charges incurred by the registered owner or lessee.

SECTION 12. (1) A registered owner or lessee that has paid the per-mile road usage charge imposed under section 3 of this 2013 Act may apply to the Department of Transportation for a refund for metered use of a road, thoroughfare or property in private ownership.

(2) An application for a refund under this section must be submitted to the department within 15 months after the date on which the per-mile road usage charge for which a refund is claimed is paid.

(3) The application required under this section shall be in a form prescribed by the department by rule and must include a signed statement by the applicant indicating the number of miles for which the refund is claimed.

(4) The department may require the applicant for a refund under this section to furnish any information the department considers necessary for processing the application.
SECTION 13. (1) The Department of Transportation may investigate a refund application submitted under section 12 of this 2013 Act and gather and compile such information related to the application as the department considers necessary to safeguard the state and prevent fraudulent practices in connection with tax refunds and tax evasion.

(2) The department may, in order to establish the validity of an application, examine the relevant records of the applicant for such purposes.

(3) If an applicant does not permit the department to examine the relevant records, the applicant waives all rights to the refund to which the application relates.

SECTION 14. (1) A person may not intentionally make a false statement in a report or refund application or when supplying other information required under section 10 or 12 of this 2013 Act.

(2) A person may not intentionally apply for, receive or attempt to receive a refund under section 11 or 12 of this 2013 Act to which the person is not entitled.

(3) A person may not intentionally aid or assist another person to violate any provision of section 10, 11 or 12 of this 2013 Act.

(4) A person who violates any provision of this section commits a Class A violation.

SECTION 15. (1) Upon application on a form prescribed by the Department of Transportation, the department shall issue an emblem to the registered owner of a subject vehicle to show that the use of fuel in the subject vehicle is exempt from taxation under ORS 319.510 to 319.880.

(2) An emblem issued under this section shall be displayed:
   (a) In a conspicuous place on the subject vehicle; and
   (b) Only upon the subject vehicle with respect to which it is issued.

SECTION 16. ORS 319.550 is amended to read:

319.550. (1) Except as provided in this section, a person may not use fuel in a motor vehicle in this state unless the person holds a valid user's license, except that:
   (2) A nonresident may use fuel in a motor vehicle not registered in Oregon for a period not exceeding 30 days without obtaining a user's license or the emblem issued under ORS 319.600, if, for all fuel used in a motor vehicle in this state, the nonresident pays to a seller, at the time of the sale, the tax provided in ORS 319.530.
   (3) A user's license is not required for a person who uses fuel in a motor vehicle with a combined weight of 26,000 pounds or less if, for all fuel used in a motor vehicle in this state, the person pays to a seller, at the time of the sale, the tax provided in ORS 319.530.
   (4) A user's license is not required for a person who uses fuel as described in ORS 319.520 (7) in the vehicles specified in subsection (4) of this section if the person pays to a seller, at the time of the sale, the tax provided in ORS 319.530.
   (b) Paragraph (a) of this subsection applies to the following vehicles:
      (A) Motor homes as defined in ORS 801.350.
      (B) Recreational vehicles as defined in ORS 446.003.
   (5) A user's license is not required for a person who uses fuel in a motor vehicle:
      (a) Metered use by which is subject to the per-mile road usage charge imposed under section 3 of this 2013 Act; and
      (b) That also uses fuels subject to ORS 319.510 to 319.880.

SECTION 17. ORS 319.665 is amended to read:

319.665. (1) The seller of fuel for use in a motor vehicle shall collect the tax provided by ORS 319.530 at the time the fuel is sold, unless one of the following situations applies:
   (a) The vehicle into which the seller delivers or places the fuel bears a valid permit or user's emblem issued by the Department of Transportation.
   (b) The fuel is dispensed at a nonretail facility, in which case the seller shall collect any tax owed at the same time the seller collects the purchase price from the person to whom the fuel was dispensed at the nonretail facility. A seller is not required to collect the tax under this paragraph
from a person who certifies to the seller that the use of the fuel is exempt from the tax imposed under ORS 319.530.

(c) A cardlock card is used for purchase of the fuel at an attended portion of a retail facility equipped with a cardlock card reader, in which case the cardlock card issuer licensed in this state is responsible for collecting and remitting the tax unless the person making the purchase certifies to the seller that the use of the fuel is exempt from the tax imposed under ORS 319.530.

(d) Metered use by the vehicle is subject to the per-mile road usage charge imposed under section 3 of this 2013 Act.

(2) If a cardlock card is used for purchase of fuel at an attended portion of a retail facility equipped with a cardlock card reader, the seller at the retail facility may deduct fuel purchases made with a cardlock card from the seller's retail transactions if the seller provides the department with the following information:

(a) A monthly statement from a cardlock card issuer that details the cardlock card purchases at the retail facility; and

(b) A listing of cardlock card issuers and gallons of fuel purchased at the retail facility by the issuers’ customers.

(3) The department shall supply each seller of fuel for use in a motor vehicle with a chart which sets forth the tax imposed on given quantities of fuel.

SECTION 18. ORS 319.831 is amended to read:

319.831. (1) If a user obtains fuel for use in a motor vehicle in this state and pays the use fuel tax on the fuel obtained, the user may apply for a refund of that part of the use fuel tax paid which is applicable to use of the fuel to propel a motor vehicle:

(a) In another state, if the user pays to the other state an additional tax on the same fuel;

(b) Upon any road, thoroughfare or property in private ownership;

(c) Upon any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

   (A) An agency of the United States;

   (B) The State Board of Forestry;

   (C) The State Forester; or

   (D) A licensee of an agency named in subparagraph (A), (B) or (C) of this paragraph;

   (d) By an agency of the United States or of this state or of any county, city or port of this state on any road, thoroughfare or property, other than a state highway, county road or city street;

   (e) By any incorporated city or town of this state;

   (f) By any county of this state or by any road assessment district formed under ORS 371.405 to 371.535;

   (g) Upon any county road for the removal of forest products as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, if:

      (A) Such use upon the county road is pursuant to a written agreement entered into with, or to a permit issued by, the State Board of Forestry, the State Forester or an agency of the United States, authorizing such user to use such road and requiring such user to pay for or to perform the construction or maintenance of the county road;

      (B) The board, officer or agency that entered into the agreement or granted the permit, by contract with the county court or board of county commissioners, has assumed the responsibility for the construction or maintenance of such county road; and

      (C) Copies of the agreements or permits required by subparagraphs (A) and (B) of this paragraph are filed with the Department of Transportation;

      (h) By a school district or education service district of this state or the contractors of a school district or education service district, for those vehicles being used to transport students;
(i) By a rural fire protection district organized under the provisions of ORS chapter 478;
(j) By any district, as defined in ORS chapter 198, that is not otherwise specifically provided for in this section; or
(k) By any state agency, as defined in ORS 240.855.
(L) In metered use subject to the per-mile road usage charge imposed under section 3 of this 2013 Act if the user has paid the charge.

(2) An application for a refund under subsection (1) of this section shall be filed with the department within 15 months after the date the use fuel tax, for which a refund is claimed, is paid.

(3) The application for a refund provided by subsection (1) of this section shall include a signed statement by the applicant indicating the amount of fuel for which a refund is claimed, and the way in which the fuel was used which qualifies the applicant for a refund. If the fuel upon which the refund is claimed was obtained from a seller to whom the use fuel tax was paid, the application shall be supported by the invoices which cover the purchase of the fuel. If the applicant paid the use fuel tax directly to the department, the applicant shall indicate the source of the fuel and the date it was obtained.

(4) The department may require any person who applies for a refund provided by subsection (1) of this section to furnish a statement, under oath, giving the person's occupation, description of the machines or equipment in which the fuel was used, the place where used and such other information as the department may require.

(5) The department may provide by rule that a refund under subsection (1)(L) of this section be granted as a credit against future per-mile road usage charges incurred by the applicant under section 3 of this 2013 Act.

SECTION 19. ORS 319.280 is amended to read:

319.280. (1) Any person who has paid any tax on motor vehicle fuel levied or directed to be paid by ORS 319.010 to 319.430 either directly by the collection of the tax by the vendor from the consumer, or indirectly by adding the amount of the tax to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of such tax paid, except as provided in ORS 319.290 to 319.330, if such person has:

(a) Purchased and used such fuel for the purpose of operating or propelling a stationary gas engine, a tractor or a motor boat, if the motor boat is used for commercial purposes at any time during the period for which the refund is claimed;

(b) Purchased and used such fuel for cleaning or dyeing or other commercial use, except when used in motor vehicles operated upon any highway;

(c) Purchased and exported such fuel from this state, in containers other than fuel supply tanks of motor vehicles, provided that the person:

(A) Exports the motor vehicle fuel from this state to another state, territory or country, not including a federally recognized Indian reservation located wholly or partially within the borders of this state, where the motor vehicle fuel is unloaded; and

(B) Has a valid motor vehicle fuel dealer's license or its equivalent issued by the state, territory or country to which the fuel is exported and where it is unloaded;

(d) Purchased and exported such fuel in the fuel supply tank of a motor vehicle and has used such fuel to operate the vehicle upon the highways of another state, if the user has paid to the other state a similar motor vehicle fuel tax on the same fuel, or has paid any other highway use tax the rate for which is increased because such fuel was not purchased in, and the tax thereon paid, to such state; [or]

(e) Purchased and used such fuel for small engines that are not used to propel motor vehicles on highways, including but not limited to those that power lawn mowers, leaf blowers, chain saws and similar implements[.]; or

(f) Purchased and used such fuel for operating a motor vehicle the metered use of which is subject to the per-mile road usage charge imposed under section 3 of this 2013 Act, if the person has paid the charge.
When a motor vehicle with auxiliary equipment uses fuel and there is no auxiliary motor for such equipment or separate tank for such a motor, a refund may be claimed and allowed as provided by subsection [(4)](5) of this section, except as otherwise provided by this subsection, without the necessity of furnishing proof of the amount of fuel used in the operation of the auxiliary equipment. The person claiming the refund may present to the Department of Transportation a statement of the claim and be allowed a refund as follows:

(a) For fuel used in pumping aircraft fuel, motor vehicle fuel, fuel or heating oils or other petroleum products by a power take-off unit on a delivery truck, refund shall be allowed claimant for tax paid on fuel purchased at the rate of three-fourths of one gallon for each 1,000 gallons of petroleum products delivered.

(b) For fuel used in operating a power take-off unit on a cement mixer truck or on a garbage truck, claimant shall be allowed a refund of 25 percent of the tax paid on all fuel used in such a truck.

(3) When a person purchases and uses motor vehicle fuel in a vehicle equipped with a power take-off unit, a refund may be claimed for fuel used to operate the power take-off unit provided the vehicle is equipped with a metering device approved by the department and designed to operate only while the vehicle is stationary and the parking brake is engaged; the quantity of fuel measured by the metering device shall be presumed to be the quantity of fuel consumed by the operation of the power take-off unit.

(4)(a) The department may provide by rule that a refund under subsection (1)(f) of this section be granted as a credit against future per-mile road usage charges incurred by the person under section 3 of this 2013 Act.

(b)(A) The department may provide by rule for refund thresholds that are met by aggregating refund amounts or by estimating motor vehicle fuel tax refunds by vehicle type, at the option of the person claiming the refund.

(B) If the person claiming the refund opts for an estimated refund based on vehicle type, the requirement under subsection (5) of this section that the person claiming the refund must present original invoices or reasonable facsimiles showing motor vehicle fuel purchases does not apply.

[(4)](5) Before any such refund may be granted, the person claiming such refund must present to the department a statement, accompanied by the original invoices, or reasonable facsimiles approved by the department, showing such purchases; provided that in lieu of original invoices or facsimiles, refunds submitted under subsection (1)(d) of this section shall be accompanied by information showing source of the fuel used and evidence of payment of tax to the state in which the fuel was used. The statement shall be made over the signature of the claimant, and shall state the total amount of such fuel for which the claimant is entitled to be reimbursed under subsection (1) of this section. The department upon the presentation of the statement and invoices or facsimiles, or other required documents, shall cause to be repaid to the claimant from the taxes collected on motor vehicle fuel such taxes so paid by the claimant.

**PENALTIES**

**SECTION 20.** Section 21 of this 2013 Act is added to and made a part of the Oregon Vehicle Code.

**SECTION 21.** (1) A person commits the offense of tampering with a vehicle metering system if the person:

(a) With the intent to defraud, operates a motor vehicle that is subject to the per-mile road usage charge imposed under section 3 of this 2013 Act on a highway knowing that the vehicle metering system is disconnected or nonfunctional.

(b) Replaces, disconnects or resets the vehicle metering system of a motor vehicle that is subject to the per-mile road usage charge imposed under section 3 of this 2013 Act with the intent of reducing the metered use recorded by the vehicle metering system.
(2) This section does not apply to a person who is servicing, repairing or replacing a vehicle metering system.

(3) As used in this section, “vehicle metering system” means a system used to record the metered use by a motor vehicle for the purpose of complying with the reporting requirements under section 10 of this 2013 Act.

(4) Tampering with a vehicle metering system is a Class A traffic violation.

CONFORMING AMENDMENTS

SECTION 22. ORS 366.505 is amended to read:
366.505. (1) The State Highway Fund shall consist of:
   (a) All moneys and revenues derived under and by virtue of the sale of bonds, the sale of which is authorized by law and the proceeds thereof to be dedicated to highway purposes.
   (b) All moneys and revenues accruing from the licensing of motor vehicles, operators and chauffeurs.
   (c) Moneys and revenues derived from any tax levied upon gasoline, distillate, liberty fuel or other volatile and inflammable liquid fuels, except moneys and revenues described in ORS 184.642 (2)(a) that become part of the Department of Transportation Operating Fund.
   (d) Moneys and revenues derived from the road usage charges imposed under section 3 of this 2013 Act.
   (e) Moneys and revenues derived from or made available by the federal government for road construction, maintenance or betterment purposes.
   (f) All moneys and revenues received from all other sources which by law are allocated or dedicated for highway purposes.

(2) The State Highway Fund shall be deemed and held as a trust fund, separate and distinct from the General Fund, and may be used only for the purposes authorized by law and is continually appropriated for such purposes.

(3) Moneys in the State Highway Fund may be invested as provided in ORS 293.701 to 293.820. All interest earnings on any of the funds designated in subsection (1) of this section shall be placed to the credit of the highway fund.

SECTION 23. ORS 367.802 is amended to read:
367.802. As used in ORS 367.800 to 367.824:
   (1) “Agreement” means a written agreement, including but not limited to a contract, for a transportation project that is entered into under ORS 367.806.
   (2) “Private entity” means any entity that is not a unit of government, including but not limited to a corporation, partnership, company, nonprofit organization or other legal entity or a natural person.
   (3) “Transportation project” or “project” means any proposed or existing undertaking that facilitates:
      (a) Any mode of transportation in this state [or that facilitates];
      (b) The collection of taxes and fees as an alternative to the motor vehicle fuel taxes imposed under ORS 319.020 and 319.530[.]; or
      (c) The collection of the per-mile road usage charge imposed under section 3 of this 2013 Act.
   
   (4) “Unit of government” means any department or agency of the federal government, any state or any agency, office or department of a state, any city, county, district, commission, authority, entity, port or other public corporation organized and existing under statutory law or under a voter-approved charter and any intergovernmental entity created under ORS 190.003 to 190.130, 190.410 to 190.440 or 190.480 to 190.490.

SECTION 24. ORS 367.804 is amended to read:
367.804. (1) The Department of Transportation shall establish the Oregon Innovative Partnerships Program for the planning, acquisition, financing, development, design, construction, recon-
struction, replacement, improvement, maintenance, management, repair, leasing and operation of transportation projects.

(2) The goals of the Oregon Innovative Partnerships Program are to:

(a) Develop an expedited project delivery process;
(b) Maximize innovation; and
(c) Develop partnerships with private entities and units of government.

(3) As part of the program established under this section:

(a) The department may:

[(a)] (A) Solicit concepts or proposals for transportation projects from private entities and units of government.
[(b)] (B) Accept unsolicited concepts or proposals for transportation projects from private entities and units of government.
[(c)] (C) Evaluate the concepts or proposals received under this subsection and select potential projects based on the concepts or proposals. The evaluation under this paragraph shall include consultation with any appropriate local government, metropolitan planning organization or area commission on transportation.
[(d)] (D) Charge an administrative fee for the evaluation in an amount determined by the department.

(b) The department shall enter into agreements to undertake transportation projects described in ORS 367.806 (2).

(4) Following an evaluation by the department of concepts or proposals submitted under subsection (3)(a) of this section, and the selection of potential transportation projects, the department may negotiate and enter into the agreements described in ORS 367.806 for implementing the selected transportation projects.

(5) Except as provided in subsection (6) of this section:

(a) Information related to a transportation project proposed under ORS 367.800 to 367.824, including but not limited to the project’s design, management, financing and other details, is exempt from disclosure under ORS 192.410 to 192.505 until:

[(A) The department shares the information with a local government, metropolitan planning organization or area commission on transportation under subsection (3)(c)(A) of this section; or
[(B) The department completes its evaluation of the proposed project and has selected the proposal for negotiation of an agreement.

(b) After the department has either shared the information described in paragraph (a) of this subsection with a local government, metropolitan planning organization or area commission on transportation, or has completed its evaluation of the proposed project, the information is subject to disclosure under ORS 192.410 to 192.505.

(6) Sensitive business, commercial or financial information that is not customarily provided to business competitors that is submitted to the department in connection with a transportation project under ORS 367.800 to 367.824 is exempt from disclosure under ORS 192.410 to 192.505 until the information is submitted to the Oregon Transportation Commission in connection with its review and approval of the transportation project under ORS 367.806.

(7) The department may, in connection with the evaluation of concepts or proposals for transportation projects, consider any financing mechanisms, including but not limited to the imposition and collection of franchise fees or user fees and the development or use of other revenue sources.

(8) The department and any other unit of government may expend, out of any funds available for the purpose, such moneys as may be necessary for the evaluation of concepts or proposals for transportation projects and for negotiating agreements for transportation projects under ORS 367.806. The department or other unit of government may employ engineers, consultants or other experts the department or other unit of government determines are needed for the purposes of doing the evaluation and negotiation. Expenses incurred by the department or other unit of government under this subsection prior to the issuance of transportation project revenue bonds or other fi-
nancing shall be paid by the department or other unit of government, as applicable, and charged to
the appropriate transportation project. The department or other unit of government shall keep re-
cords and accounts showing each amount so charged. Upon the sale of transportation project re-
venue bonds or upon obtaining other financing for any transportation project, the funds expended
by the department or other unit of government under this subsection in connection with the project
shall be repaid to the department or the unit of government from the proceeds of the bonds or other
financing, as allowed by applicable law.

SECTION 25. ORS 367.806 is amended to read:

367.806. (1) As part of the Oregon Innovative Partnerships Program established under ORS
367.804, the Department of Transportation may:

(a) Enter into any agreement or any configuration of agreements relating to transportation
projects with any private entity or unit of government or any configuration of private entities and
units of government. The subject of agreements entered into under this section may include, but
need not be limited to, planning, acquisition, financing, development, design, construction, recon-
struction, replacement, improvement, maintenance, management, repair, leasing and operation of
transportation projects.

(b) Include in any agreement entered into under this section any financing mechanisms, includ-
ing but not limited to the imposition and collection of franchise fees or user fees and the develop-
ment or use of other revenue sources.

(2) As part of the Oregon Innovative Partnerships Program established under ORS
367.804, the department shall enter into agreements to undertake transportation projects the
subjects of which include the application of technology standards to determine whether to
certify technology, the collection of metered use data, tax processing and account manage-
ment, as these subjects relate to the operation of a road usage charge system pursuant to
sections 2 to 15 of this 2013 Act.

[2] (3) The agreements among the public and private sector partners entered into under this
section must specify at least the following:

(a) At what point in the transportation project public and private sector partners will enter the
project and which partners will assume responsibility for specific project elements;
(b) How the partners will share management of the risks of the project;
(c) How the partners will share the costs of development of the project;
(d) How the partners will allocate financial responsibility for cost overruns;
(e) The penalties for nonperformance;
(f) The incentives for performance;
(g) The accounting and auditing standards to be used to evaluate work on the project; and
(h) Whether the project is consistent with the plan developed by the Oregon Transportation
Commission under ORS 184.618 and any applicable regional transportation plans or local transpor-
tation system programs and, if not consistent, how and when the project will become consistent with
applicable plans and programs.

[3] (4) The department may, either separately or in combination with any other unit of gov-
ernment, enter into working agreements, coordination agreements or similar implementation agree-
ments to carry out the joint implementation of any transportation project selected under ORS
367.804.

[4] (5) Except for ORS 383.015, 383.017 (1), (2), (3) and (5) and 383.019, the provisions of ORS
383.003 to 383.075 apply to any tollway project entered into under ORS 367.800 to 367.824.

not apply to concepts or proposals submitted under ORS 367.804, or to agreements entered into un-
der this section, except that if public moneys are used to pay any costs of construction of public
works that is part of a project, the provisions of ORS 279C.800 to 279C.870 apply to the public
works. In addition, if public moneys are used to pay any costs of construction of public works that
is part of a project, the construction contract for the public works must contain provisions that
require the payment of workers under the contract in accordance with ORS 279C.540 and 279C.800 to 279C.870.

(6)(a) The department may not enter into an agreement under this section until the agreement is reviewed and approved by the Oregon Transportation Commission.

(b) The department may not enter into, and the commission may not approve, an agreement under this section for the construction of a public improvement as part of a transportation project unless the agreement provides for bonding, financial guarantees, deposits or the posting of other security to secure the payment of laborers, subcontractors and suppliers who perform work or provide materials as part of the project.

(c) Before presenting an agreement to the commission for approval under this subsection, the department must consider whether to implement procedures to promote competition among subcontractors for any subcontracts to be let in connection with the transportation project. As part of its request for approval of the agreement, the department shall report in writing to the commission its conclusions regarding the appropriateness of implementing such procedures.

(7)(a) Except as provided in paragraph (b) of this subsection, documents, communications and information developed, exchanged or compiled in the course of negotiating an agreement with a private entity under this section are exempt from disclosure under ORS 192.410 to 192.505.

(b) The documents, communications or information described in paragraph (a) of this subsection are subject to disclosure under ORS 192.410 to 192.505 when the documents, communications or information are submitted to the commission in connection with its review and approval of a transportation project under subsection (7) of this section.

(8)(a) The terms of a final agreement entered into under this section and the terms of a proposed agreement presented to the commission for review and approval under subsection (6) of this section are subject to disclosure under ORS 192.410 to 192.505.

(9) As used in this section:

(a) “Public improvement” has the meaning given that term in ORS 279A.010.

(b) “Public works” has the meaning given that term in ORS 279C.800.

SECTION 26. ORS 305.410 is amended to read:

305.410. (1) Subject only to the provisions of ORS 305.445 relating to judicial review by the Supreme Court and to subsection (2) of this section, the tax court shall be the sole, exclusive and final judicial authority for the hearing and determination of all questions of law and fact arising under the tax laws of this state. For the purposes of this section, and except to the extent that they preclude the imposition of other taxes, the following are not tax laws of this state:

(a) ORS chapter 577 relating to Oregon Beef Council contributions.

(b) ORS 576.051 to 576.455 relating to commodity commission assessments.

(c) ORS chapter 477 relating to fire protection assessments.

(d) ORS chapters 731, 732, 733, 734, 737, 742, 743, 743A, 744, 746, 748 and 750 relating to insurance company fees and taxes.

(e) ORS chapter 473 relating to liquor taxes.

(f) ORS chapter 583 relating to milk marketing, production or distribution fees.

(g) ORS chapter 825 relating to motor carrier taxes.

(h) ORS chapter 319 relating to motor vehicle and aircraft fuel taxes and the road usage charges imposed under section 3 of this 2013 Act.

(i) ORS title 59 relating to motor vehicle and motor vehicle operators’ license fees and ORS title 39 relating to boat licenses.

(j) ORS chapter 578 relating to Oregon Wheat Commission assessments.

(k) ORS chapter 462 relating to racing taxes.

(L) ORS chapter 657 relating to unemployment insurance taxes.

(m) ORS chapter 656 relating to workers’ compensation contributions, assessments or fees.

(n) ORS 311.420, 311.425, 311.455, 311.650, 311.655 and ORS chapter 312 relating to foreclosure of real and personal property tax liens.
(o) Sections 15 to 22, 24 and 29, chapter 736, Oregon Laws 2003, relating to long term care facility assessments.

(2) The tax court and the circuit courts shall have concurrent jurisdiction to try actions or suits to determine:

(a) The priority of property tax liens in relation to other liens.

(b) The validity of any deed, conveyance, transfer or assignment of real or personal property under ORS 95.060 and 95.070 (1983 Replacement Part) or 95.200 to 95.310 where the Department of Revenue has or claims a lien or other interest in the property.

(3) Subject only to the provisions of ORS 305.445 relating to judicial review by the Supreme Court, the tax court shall be the sole, exclusive and final judicial authority for the hearing and determination of all questions of law and fact concerning the authorized uses of the proceeds of bonded indebtedness described in section 11 (11)(d), Article XI of the Oregon Constitution.

(4) Except as permitted under section 2, amended Article VII, Oregon Constitution, this section and ORS 305.445, no person shall contest, in any action, suit or proceeding in the circuit court or any other court, any matter within the jurisdiction of the tax court.

TECHNICAL PROVISIONS

SECTION 27. (1) Sections 3 to 5, 10 to 15 and 21 of this 2013 Act and the amendments to ORS 319.280, 319.550, 319.665, 319.831 and 366.505 by sections 16 to 19 and 22 of this 2013 Act become operative on July 1, 2015.

(2) The Department of Transportation may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the department to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the department by sections 2 to 15 and 21 of this 2013 Act and the amendments to ORS 319.280, 319.550, 319.665, 319.831 and 366.505 by sections 16 to 19 and 22 of this 2013 Act.

SECTION 28. The unit captions used in this 2013 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.

MULTIJURISDICTIONAL AGREEMENTS

SECTION 29. The Department of Transportation may enter into agreements with other state departments of transportation, the federal government and Canadian provinces for the purposes of:

(1) Conducting joint research relating to road usage charges and development programs on a multistate basis;

(2) Furthering the development and operation of single state or multistate road usage charge pilot programs;

(3) Sharing costs incurred in conducting the research described in subsection (1) of this section; and

(4) Developing a program for stakeholder outreach and communications with respect to road usage charges.

SECTION 30. For the biennium beginning July 1, 2013, expenditures by the Department of Transportation from funds received from other states, the federal government, Canadian provinces or the government of Canada for the purposes described in section 29 of this 2013 Act are not limited.

EXPENDITURE LIMITATION
SECTION 31. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3 (7), chapter 556, Oregon Laws 2013 (Enrolled Senate Bill 5544), for the biennium beginning July 1, 2013, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and federal funds received as reimbursement from the United States Department of Transportation, but excluding lottery funds and federal funds not described in this section, collected or received by the Department of Transportation, is increased by $2,828,339 for the road usage charge program established by sections 2 to 15 of this 2013 Act.

RAIL PROXIMATE REAL PROPERTY TRANSFERS

SECTION 32. ORS 271.310 is amended to read:

271.310. (1) Except as provided in subsection (2) of this section and subject to subsection (3) of this section, whenever any political subdivision possesses or controls real property not needed for public use, or whenever the public interest may be furthered, a political subdivision may sell, exchange, convey or lease for any period not exceeding 99 years all or any part of the political subdivision's interest in the property to a governmental body or private individual or corporation. The consideration for the transfer or lease may be cash or real property, or both.

(2) If the ownership, right or title of the political subdivision to any real property set apart by deed, will or otherwise for a burial ground or cemetery, or for the purpose of interring the remains of deceased persons, is limited or qualified or the use of the real property is restricted, whether by dedication or otherwise, the political subdivision may, after the county court or governing body thereof has first declared by resolution that the real property is not needed for public use, or that the sale, exchange, conveyance or lease of the real property will further the public interest, file a complaint in the circuit court for the county in which the real property is located against all persons claiming any right, title or interest in the real property, whether the interest be contingent, conditional or otherwise, for authority to sell, exchange, convey or lease all or any part of the real property. The resolution is prima facie evidence that the real property is not needed for public use, or that the sale, exchange, conveyance or lease will further the public interest. The action shall be commenced and prosecuted to final determination in the same manner as an action not triable by right to a jury. The complaint shall contain a description of the real property, a statement of the nature of the restriction, qualification or limitations, and a statement that the defendants claim some interest therein. The court shall make such judgment as it shall deem proper, taking into consideration the limitation, qualifications or restrictions, the resolution, and all other matters pertinent thereto. Neither costs nor disbursements may be recovered against any defendant.

(3)(a) At least 30 days before listing or placing real property for sale, exchange or conveyance, a political subdivision shall notify the Department of Transportation of its intent to sell, exchange or convey the real property if the real property is within 100 feet of a railroad right of way or is within 500 feet of an at-grade rail crossing.

(b) The department shall share the advance notice with private providers of rail service that might be interested in obtaining the real property to facilitate the current delivery or future expansion of rail service. Notwithstanding the benefit of receiving advance notice, a private provider of rail service may not obtain or enter into negotiations to obtain the real property until the political subdivision offers the real property for sale, exchange, conveyance or lease to the general public. As used in this paragraph, "general public" includes private providers of rail service.

(c) Paragraph (a) of this subsection does not apply:

(A) To light rail corridors and any other rail corridors excluded by rule of the department;

(B) If the proposed sale, exchange or conveyance of the real property is to a provider of rail service; or

(C) To the proposed sale, exchange or conveyance of easements.

(d) The department shall adopt rules to implement this subsection. The rules may include provisions that:
(A) Identify rail corridors within which a political subdivision is not required to provide notice of intention to sell, exchange or convey real property within 100 feet of a railroad right of way or within 500 feet of an at-grade rail crossing.

(B) Establish a process for providing advance notice to private providers of rail service.

(4) Unless the governing body of a political subdivision determines under subsection (1) of this section that the public interest may be furthered, real property needed for public use by any political subdivision owning or controlling the property may not be sold, exchanged, conveyed or leased under the authority of ORS 271.300 to 271.360, except that it may be exchanged for property that is of equal or superior useful value for public use. Any such property not immediately needed for public use may be leased if, in the discretion of the governing body having control of the property, the property will not be needed for public use within the period of the lease.

(5) The authority to lease property granted by this section includes authority to lease property not owned or controlled by the political subdivision at the time of entering into the lease. A lease under this subsection shall be conditioned upon the subsequent acquisition of the interest covered by the lease.

EFFECTIVE DATE

SECTION 33. This 2013 Act takes effect on the 91st day after the date on which the 2013 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

Passed by Senate July 6, 2013

Robert Taylor, Secretary of Senate

Peter Courtney, President of Senate

Passed by House July 7, 2013

Tina Kotek, Speaker of House

Received by Governor:

......................................................... M., ........................................................., 2013

Robert Taylor, Secretary of Senate

Approved:

......................................................... M., ........................................................., 2013

Peter Courtney, President of Senate

John Kitzhaber, Governor

Filed in Office of Secretary of State:

......................................................... M., ........................................................., 2013

Tina Kotek, Speaker of House

Kate Brown, Secretary of State
AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending the title, a division heading, and sections 35a, 36, 244, and 602b (MCL 257.35a, 257.36, 257.244, and 257.602b), the title as amended by 2010 PA 10, section 35a as amended by 1980 PA 515, section 244 as amended by 2008 PA 539, and section 602b as amended by 2013 PA 36, and by adding sections 2b, 663, 665, 666, and 817.

The People of the State of Michigan enact:

TITLE

An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of manufacturers, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date.

Sec. 2b. (1) “Automated motor vehicle” means a motor vehicle on which automated technology has been installed, either by a manufacturer of automated technology or an upfitter that enables the motor vehicle to be operated without any control or monitoring by a human operator. Automated motor vehicle does not include a motor vehicle enabled with
1 or more active safety systems or operator assistance systems, including, but not limited to, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane-keeping assistance, lane departure warning, or traffic jam and queuing assistance, unless 1 or more of these technologies alone or in combination with other systems enable the vehicle on which the technology is installed to operate without any control or monitoring by an operator.

(2) “Automated technology” means technology installed on a motor vehicle that has the capability to assist, make decisions for, or replace an operator.

(3) “Automatic mode” means the mode of operating an automated motor vehicle when automated technology is engaged to enable the motor vehicle to operate without any control or monitoring by an operator.

(4) “Manufacturer of automated technology” means a manufacturer or subcomponent system producer recognized by the secretary of state that develops or produces automated technology or automated vehicles.

(5) “Upfitter” means a person that modifies a motor vehicle after it was manufactured by installing automated technology in that motor vehicle to convert it to an automated vehicle. Upfitter includes a subcomponent system producer recognized by the secretary of state that develops or produces automated technology.

Sec. 35a. “Operate” or “operating” means 1 or more of the following:
(a) Being in actual physical control of a vehicle. This subdivision applies regardless of whether or not the person is licensed under this act as an operator or chauffeur.
(b) Causing an automated motor vehicle to move under its own power in automatic mode upon a highway or street regardless of whether the person is physically present in that automated motor vehicle at that time. This subdivision applies regardless of whether the person is licensed under this act as an operator or chauffeur. As used in this subdivision, “causing an automated motor vehicle to move under its own power in automatic mode” includes engaging the automated technology of that automated motor vehicle for that purpose.

Sec. 36. “Operator” means a person, other than a chauffeur, who does either of the following:
(a) Operates a motor vehicle upon a highway or street.
(b) Operates an automated motor vehicle upon a highway or street.

Sec. 244. (1) A manufacturer owning a vehicle of a type otherwise required to be registered under this act may operate or move the vehicle upon a street or highway primarily for the purposes of transporting or testing or in connection with a golf tournament or a public civic event, if the vehicle displays, in the manner prescribed in section 225, 1 special plate approved by the secretary of state.

(2) A producer of a vehicle subcomponent system essential to the operation of the vehicle or the safety of an occupant may operate or move a motor vehicle upon a street or highway solely to transport or test the subcomponent system if the motor vehicle displays, in the manner prescribed in section 225, 1 special plate approved by the secretary of state. To be eligible for the special plate, the subcomponent system producer must be either a recognized subcomponent system producer or must be a subcomponent system producer under contract with a vehicle manufacturer.

(3) Subject to section 665, a manufacturer of automated technology may operate or otherwise move a motor vehicle or an automated motor vehicle upon a street or highway solely to transport or test automated technology if the motor vehicle or automated motor vehicle displays, in the manner prescribed in section 225, a special plate approved by the secretary of state.

(4) A dealer owning a vehicle of a type otherwise required to be registered under this act may operate or move the vehicle upon a street or highway without registering the vehicle if the vehicle displays, in the manner prescribed in section 225, 1 special plate issued to the owner by the secretary of state. As used in this subsection, “dealer” includes an employee, servant, or agent of the dealer.

(5) Solely to deliver the vehicle, a transporter may operate or move a vehicle of a type otherwise required to be registered under this act upon a street or highway if the vehicle displays, in the manner prescribed in section 225, a special plate issued to the transporter under this chapter.

(6) A licensee shall not use a special plate described in this section on service cars or wreckers operated as an adjunct of a licensee’s business. A manufacturer, transporter, or dealer making or permitting any unauthorized use of a special plate under this chapter forfeits the right to use special plates and the secretary of state, after notice and a hearing, may suspend or cancel the right to use special plates and require that the special plates be surrendered to or repossessed by the state.

(7) A transporter shall furnish a sufficient surety bond or policy of insurance as protection for public liability and property damage as may be required by the secretary of state.

(8) The secretary of state shall determine the number of plates a manufacturer, dealer, or transporter reasonably needs in his or her business.

(9) If a vehicle that is required to be registered under this act is leased or sold, the vendee or lessee is permitted to operate the vehicle upon a street or highway for not more than 72 hours after taking possession if the vehicle has a dealer plate attached as provided in this section. The application for registration shall be made in the name of the
vendee or lessee before the vehicle is used. The dealer and the vendee or lessee are jointly responsible for the return of the dealer plate to the dealer within 72 hours, and the failure of the vendee or lessee to return or the vendor or lessor to use due diligence to procure the dealer plate is a misdemeanor, and in addition the license of the dealer may be revoked. While using a dealer's plate, a vendee or lessee shall have in his or her possession proof that clearly indicates the date of sale or lease of the motor vehicle.

(10) A vehicle owned by a dealer and bearing the dealer's plate may be driven upon a street or highway for demonstration purposes by a prospective buyer or lessee for a period of 72 hours.

(11) The secretary of state may issue a registration plate upon application and payment of the proper fee to an individual, partnership, corporation, or association that in the ordinary course of business has occasion to legally pick up or deliver a commercial motor vehicle being driven to a facility to undergo aftermarket modification, or to repair or service a vehicle, or to persons defined as watercraft dealers under part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199, or to the owner of a marina for the purpose of delivering a vessel or trailer to a purchaser, to transport a vessel between a body of water and a place of storage, to transport a vessel or trailer to and from a boat show or exposition, to repair, service, or store a vessel or trailer, or to return a vessel or trailer to the customer after repair, service, or storage. A registration plate issued under this subsection shall be used to move the vehicle or trailer.

Sec. 602b. (1) Except as otherwise provided in this section, a person shall not read, manually type, or send a text message on a wireless 2-way communication device that is located in the person's hand or in the person's lap, including a wireless telephone used in cellular telephone service or personal communication service, while operating a motor vehicle that is moving on a highway or street in this state. As used in this subsection, a wireless 2-way communication device does not include a global positioning or navigation system that is affixed to the motor vehicle. Beginning October 28, 2013, this subsection does not apply to a person operating a commercial vehicle.

(2) Except as otherwise provided in this section, a person shall not read, manually type, or send a text message on a wireless 2-way communication device that is located in the person's hand or in the person's lap, including a wireless telephone used in cellular telephone service or personal communication service, while operating a commercial motor vehicle or a school bus on a highway or street in this state. As used in this subsection, a wireless 2-way communication device does not include a global positioning or navigation system that is affixed to the commercial motor vehicle or school bus. This subsection applies beginning October 28, 2013.

(3) Except as otherwise provided in this section, a person shall not use a hand-held mobile telephone to conduct a voice communication while operating a commercial motor vehicle or a school bus on a highway, including while temporarily stationary due to traffic, a traffic control device, or other momentary delays. This subsection does not apply if the operator of the commercial vehicle or school bus has moved the vehicle to the side of, or off, a highway and has stopped in a location where the vehicle can safely remain stationary. As used in this subsection, “mobile telephone” does not include a 2-way radio service or citizens band radio service. This subsection applies beginning October 28, 2013. As used in this subsection, “use a hand-held mobile telephone” means 1 or more of the following:

(a) Using at least 1 hand to hold a mobile telephone to conduct a voice communication.

(b) Dialing or answering a mobile telephone by pressing more than a single button.

(c) Reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt that is installed as required by 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

(4) Subsections (1), (2), and (3) do not apply to an individual who is using a device described in subsection (1) or (3) to do any of the following:

(a) Report a traffic accident, medical emergency, or serious road hazard.

(b) Report a situation in which the person believes his or her personal safety is in jeopardy.

(c) Report or avert the perpetration or potential perpetration of a criminal act against the individual or another person.

(d) Carry out official duties as a police officer, law enforcement official, member of a paid or volunteer fire department, or operator of an emergency vehicle.

(e) Operate or program the operation of an automated motor vehicle while testing the automated motor vehicle in compliance with section 665, if that automated motor vehicle displays a special plate issued under section 224(3) in the manner required under section 225.

(5) An individual who violates this section is responsible for a civil infraction and shall be ordered to pay a civil fine as follows:

(a) For a first violation, $100.00.

(b) For a second or subsequent violation, $200.00.

(6) This section supersedes all local ordinances regulating the use of a communications device while operating a motor vehicle in motion on a highway or street, except that a unit of local government may adopt an ordinance or enforce an existing ordinance substantially corresponding to this section.
AUTOMATED VEHICLES

Sec. 663. Except as otherwise provided in section 665, a person shall not operate an automated motor vehicle upon a highway or street in automatic mode.

Sec. 665. (1) Before beginning research or testing of an automated motor vehicle or any automated technology installed in a motor vehicle under this section, the manufacturer of automated technology performing that research or testing shall submit proof satisfactory to the secretary of state that the vehicle is insured under chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179.

(2) A manufacturer of automated technology shall ensure that all of the following circumstances exist when researching or testing the operation of an automated motor vehicle or any automated technology installed in a motor vehicle upon a highway or street:

(a) The vehicle is operated only by an employee, contractor, or other person designated or otherwise authorized by that manufacturer of automated technology.

(b) An individual is present in the vehicle while it is being operated on a highway or street of this state and that individual has the ability to monitor the vehicle's performance and, if necessary, immediately take control of the vehicle's movements.

(c) The individual operating the vehicle under subdivision (a) and the individual who is present in the vehicle for purposes of subdivision (b) are licensed to operate a motor vehicle in the United States.

(3) No later than February 1, 2016, the state transportation department in consultation with the secretary of state and experts from various sizes of automobile manufacturing and automated technology manufacturing industries shall submit a report to the senate standing committees on transportation and economic development and to the house of representatives standing committees on transportation and commerce recommending any additional legislative or regulatory action that may be necessary for the continued safe testing of automated motor vehicles and automated technology installed in motor vehicles.

Sec. 666. (1) A person who violates this division is responsible for a civil infraction and may be fined as provided in section 907.

(2) This division does not prohibit a person from being charged with, convicted of or being found responsible for, ordered to pay a fine or costs, or punished for any other violation of law arising out of the same transaction as the violation of this division.

Sec. 817. A manufacturer of automated technology is immune from civil liability for damages that arise out of any modification made by another person to a motor vehicle or an automated motor vehicle, or to any automated technology, as provided in section 2949b of the revised judicature act of 1961, 1961 PA 236, MCL 600.2949b.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 663 of the 97th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Moryo Vivenzi
Secretary of the Senate

Sue M. Randall
Clerk of the House of Representatives

Approved.................................................................

Governor
ENROLLED SENATE BILL No. 663

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” (MCL 600.101 to 600.9947) by adding section 2949b.

The People of the State of Michigan enact:

Sec. 2949b. (1) The manufacturer of a vehicle is not liable and shall be dismissed from any action for alleged damages resulting from any of the following unless the defect from which the damages resulted was present in the vehicle when it was manufactured:

(a) The conversion or attempted conversion of the vehicle into an automated motor vehicle by another person.

(b) The installation of equipment in the vehicle by another person to convert it into an automated motor vehicle.

(c) The modification by another person of equipment that was installed by the manufacturer in an automated motor vehicle specifically for using the vehicle in automatic mode.

(2) A subcomponent system producer recognized as described in section 244 of the Michigan vehicle code, 1949 PA 300, MCL 257.244, is not liable in a product liability action for damages resulting from the modification of equipment installed by the subcomponent system producer to convert a vehicle to an automated motor vehicle unless the defect from which the damages resulted was present in the equipment when it was installed by the subcomponent system producer.

(3) Sections 2945 to 2949a do not apply in a product liability action to the extent that they are inconsistent with this section.

(4) As used in this section:

(a) “Automated motor vehicle” means that term as defined in section 2b of the Michigan vehicle code, 1949 PA 300, MCL 257.2b.

(b) “Automatic mode” means that term as defined in section 2b of the Michigan vehicle code, 1949 PA 300, MCL 257.2b.

(c) “Vehicle” means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 169 of the 97th Legislature is enacted into law.
Senate Bill No. 27

CHAPTER 16

An act to amend Section 9084 of the Elections Code, and to amend Sections 82015, 82048.7, 84105, and 88001 of, and to add Sections 84222 and 84223 to, the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 14, 2014. Filed with Secretary of State May 14, 2014.]

LEGISLATIVE COUNSEL'S DIGEST


(1) Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures, as defined, and imposing other reporting and recordkeeping requirements on campaign committees, as defined. The Fair Political Practices Commission administers and enforces the act. A violation of the act’s provisions is punishable as a misdemeanor.

This bill would revise the definition of “contribution” to include certain payments made by a person to a multipurpose organization, as specified.

This bill would require multipurpose organizations that meet specified criteria to comply with the registration and campaign reporting requirements of the act, as specified, including the disclosure of information relating to the organization’s donors.

This bill would require state ballot measure committees and state candidate committees that raise $1,000,000 or more for an election to maintain an accurate list of the committee’s top 10 contributors. This bill would require a committee to provide accurate lists of these contributors to the Commission, and would require the Commission to post the top 10 contributor lists on its Internet Web site, as specified, and to post updates to those lists when prescribed events occur. The bill would require the Commission to provide copies of the top 10 contributor lists to the Secretary of State, at the Secretary of State’s request, for purposes of posting those lists on the Secretary of State’s Internet Web site.

(2) The act requires a candidate or committee that receives contributions of $5,000 or more from any person to inform the contributor within 2 weeks that he or she may be subject to the act’s reporting requirements.

This bill would require that the candidate or committee inform the contributor within one week for a contribution of $10,000 or more received during the period in which late contribution reports must be filed. The bill would also require the notifications to reference the reporting requirements for multipurpose organizations.
By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

(3) Existing law requires the Secretary of State to prepare a ballot pamphlet that includes specified information with respect to an election.

This bill would require the Secretary of State to include in the ballot pamphlet a written explanation of the top 10 contributor lists required by the bill, including a description of the Internet Web sites where those lists would be available to the public.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes upon a two-thirds vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

The bill would delay the operative date of its provisions until July 1, 2014.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Multipurpose organizations, including out-of-state organizations, are increasing their political activities in California, and it is important to clarify how disclosure requirements apply to these organizations to ensure that the public receives the required information in an accurate, timely, and transparent manner.

(b) The Ninth Circuit Court of Appeals, in California Pro-Life Council, Inc. v. Randolph (9th Cir. 2007) 507 F.3d 1172, upheld the disclosure of a multipurpose organization’s political activities, as required by regulations of the Fair Political Practices Commission.

(c) The disclosure of donors to multipurpose organizations that make contributions or expenditures to support or oppose California candidates and ballot measures serves the following important purposes:

(1) It provides the electorate with information as to where campaign money comes from, increasing its ability to identify the supporters of a candidate or ballot measure.

(2) It deters actual corruption and avoids the appearance of corruption by providing increased transparency of contributions and expenditures.

(3) It is an important means of gathering the information necessary to detect violations of the Political Reform Act of 1974.
The people of California have a compelling interest in receiving clear and easy to use information about who is financing state ballot measures and candidate independent expenditure committees.

It is therefore the intent of the Legislature to strengthen the laws requiring the disclosure of contributions and expenditures in California elections by multipurpose organizations and to require committees that raise or spend one million dollars ($1,000,000) or more to support or oppose state ballot measures or make independent expenditures on behalf of a state candidate to disclose a list of their top 10 contributors on the Internet Web site of the Fair Political Practices Commission.

SEC. 2. Section 9084 of the Elections Code is amended to read:

9084. The ballot pamphlet shall contain all of the following:

(a) A complete copy of each state measure.

(b) A copy of the specific constitutional or statutory provision, if any, that each state measure would repeal or revise.

(c) A copy of the arguments and rebuttals for and against each state measure.

(d) A complete copy of the analysis of each state measure.

(e) Tables of contents, indexes, artwork, graphics, and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.

(g) A written explanation of the judicial retention procedure as required by Section 9083.

(h) The Voter Bill of Rights pursuant to Section 2300.

(i) If the ballot contains an election for the office of United States Senator, information on candidates for United States Senator. A candidate for United States Senator may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlet.

(j) If the ballot contains a question on the confirmation or retention of a justice of the Supreme Court, information on justices of the Supreme Court who are subject to confirmation or retention.

(k) If the ballot contains an election for the offices of President and Vice President of the United States, a notice that refers voters to the Secretary of State’s Internet Web site for information about candidates for the offices of President and Vice President of the United States.

(l) A written explanation of the appropriate election procedures for party-nominated, voter-nominated, and nonpartisan offices as required by Section 9083.5.

(m) A written explanation of the top 10 contributor lists required by Section 84223 of the Government Code, including a description of the Internet Web sites where those lists are available to the public.
SEC. 3. Section 82015 of the Government Code is amended to read:
82015. (a) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

(b) (1) A payment made at the behest of a committee as defined in subdivision (a) of Section 82013 is a contribution to the committee unless full and adequate consideration is received from the committee for making the payment.

(2) A payment made at the behest of a candidate is a contribution to the candidate unless the criteria in either subparagraph (A) or (B) are satisfied:

(A) Full and adequate consideration is received from the candidate.

(B) It is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The following types of payments are presumed to be for purposes unrelated to a candidate’s candidacy for elective office:

(i) A payment made principally for personal purposes, in which case it may be considered a gift under the provisions of Section 82028. Payments that are otherwise subject to the limits of Section 86203 are presumed to be principally for personal purposes.

(ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(iii) A payment not covered by clause (i), made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution. However, payments of this type that are made at the behest of a candidate who is an elected officer shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars ($5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the elected officer with the elected officer’s agency and shall be a public record subject to inspection and copying pursuant to subdivision (a) of Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the five-thousand-dollar ($5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source must be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state agencies shall forward a copy of these reports to the Fair Political Practices Commission, and local agencies shall forward a copy of these reports to the officer with whom elected officers of that agency file their campaign statements.
(C) For purposes of subparagraph (B), a payment is made for purposes related to a candidate’s candidacy for elective office if all or a portion of the payment is used for election-related activities. For purposes of this subparagraph, “election-related activities” shall include, but are not limited to, the following:

(i) Communications that contain express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(ii) Communications that contain reference to the candidate’s candidacy for elective office, the candidate’s election campaign, or the candidate’s or his or her opponent’s qualifications for elective office.

(iii) Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to his or her opponent.

(iv) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in clause (i), (ii), or (iii).

(v) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the candidate.

(vi) Preparing campaign budgets.

(vii) Preparing campaign finance disclosure statements.

(viii) Communications directed to voters or potential voters as part of activities encouraging or assisting persons to vote if the communication contains express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(D) A contribution made at the behest of a candidate for a different candidate or to a committee not controlled by the behesting candidate is not a contribution to the behesting candidate.

(3) A payment made at the behest of a member of the Public Utilities Commission, made principally for legislative, governmental, or charitable purposes, is not a contribution. However, payments of this type shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars ($5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the member with the Public Utilities Commission and shall be a public record subject to inspection and copying pursuant to subdivision (a) of Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the five-thousand-dollar ($5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source must be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, the Public Utilities Commission shall forward a copy of these reports to the Fair Political Practices Commission.
(c) “Contribution” includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate’s own money or property used on behalf of his or her candidacy other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(d) “Contribution” further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(e) “Contribution” does not include amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(f) “Contribution” does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if the costs for the meeting or fundraising event are five hundred dollars ($500) or less.

(g) Notwithstanding the foregoing definition of “contribution,” the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(h) “Contribution” further includes the payment of public moneys by a state or local governmental agency for a communication to the public that satisfies both of the following:

(1) The communication expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or, taken as a whole and in context, unambiguously urges a particular result in an election.

(2) The communication is made at the behest of the affected candidate or committee.

(i) “Contribution” further includes a payment made by a person to a multipurpose organization as defined and described in Section 84222.

SEC. 4. Section 82048.7 of the Government Code is amended to read:

82048.7. (a) “Sponsored committee” means a committee, other than a candidate controlled committee, that has one or more sponsors. Any person, except a candidate or other individual, may sponsor a committee.

(b) A person sponsors a committee if any of the following apply:

(1) The committee receives 80 percent or more of its contributions from the person or its members, officers, employees, or shareholders.
(2) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(3) The person, alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(4) The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

(c) A sponsor that is a multipurpose organization, as defined in subdivision (a) of Section 84222, and that makes contributions or expenditures from its general treasury funds shall comply with Section 84222.

SEC. 5. Section 84105 of the Government Code is amended to read:

84105. A candidate or committee that receives contributions of five thousand dollars ($5,000) or more from any person shall inform the contributor within two weeks of receipt of the contributions that he or she may be required to file campaign reports, and shall include a reference to the filing requirements for multipurpose organizations under Section 84222. However, a candidate or committee that receives a contribution of ten thousand dollars ($10,000) or more from any person during any period in which late contribution reports are required to be filed pursuant to Section 84203 shall provide the information to the contributor within one week. The notification required by this section is not required to be sent to any contributor who has an identification number assigned by the Secretary of State issued pursuant to Section 84101.

SEC. 6. Section 84222 is added to the Government Code, to read:

84222. (a) For purposes of this title, “multipurpose organization” means an organization described in Sections 501(c)(3) to 501(c)(10), inclusive, of the Internal Revenue Code and that is exempt from taxation under Section 501(a) of the Internal Revenue Code, a federal or out-of-state political organization, a trade association, a professional association, a civic organization, a religious organization, a fraternal society, an educational institution, or any other association or group of persons acting in concert, that is operating for purposes other than making contributions or expenditures. “Multipurpose organization” does not include a business entity, an individual, or a federal candidate’s authorized committee, as defined in Section 431 of Title 2 of the United States Code, that is registered and filing reports pursuant to the Federal Election Campaign Act of 1971 (Public Law 92-225).

(b) A multipurpose organization that makes expenditures or contributions and does not qualify as a committee pursuant to subdivision (c) may qualify as an independent expenditure committee or major donor committee if the multipurpose organization satisfies subdivision (b) or (c) of Section 82013.

(c) Except as provided in subparagraph (A) of paragraph (5), a multipurpose organization is a recipient committee within the meaning of subdivision (a) of Section 82013 only under one or more of the following circumstances:
The multipurpose organization is a political committee registered with the Federal Election Commission, except as provided in subdivision (a) of this section, or a political committee registered with another state, and the multipurpose organization makes contributions or expenditures in this state in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013.

(2) The multipurpose organization solicits and receives payments from donors in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013 for the purpose of making contributions or expenditures.

(3) The multipurpose organization accepts payments from donors in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013 subject to a condition, agreement, or understanding with the donor that all or a portion of the payments may be used for making contributions or expenditures.

(4) The multipurpose organization has existing funds from a donor and a subsequent agreement or understanding is reached with the donor that all or a portion of the funds may be used for making contributions or expenditures in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013. The date of the subsequent agreement or understanding is deemed to be the date of receipt of the payment.

(5) The multipurpose organization makes contributions or expenditures totaling more than fifty thousand dollars ($50,000) in a period of 12 months or more than one hundred thousand dollars ($100,000) in a period of four consecutive calendar years.

(A) A multipurpose organization shall not qualify as a committee within the meaning of subdivision (a) of Section 82013 pursuant to this paragraph if the multipurpose organization makes contributions or expenditures using only available nondonor funds. A multipurpose organization that makes contributions or expenditures with nondonor funds shall briefly describe the source of the funds used on its major donor or independent expenditure report.

(B) For purposes of this paragraph, “nondonor funds” means investment income, including capital gains, or income earned from providing goods, services, or facilities, whether related or unrelated to the multipurpose organization’s program, sale of assets, or other receipts that are not donations.

(d) A multipurpose organization that is a committee pursuant to paragraph (1) of subdivision (c) shall comply with the registration and reporting requirements of this chapter, subject to the following:

(1) The multipurpose organization is not required to comply with subdivision (k) of Section 84211 for contributions and expenditures made to influence federal or out-of-state elections, which shall instead be reported as a single expenditure and be described as such on the campaign statement.

(2) A multipurpose organization registered with the Federal Election Commission is not subject to subdivisions (d) and (f) of Section 84211 but shall disclose the total amount of contributions received pursuant to
subdivision (a) of Section 84211, and shall disclose the multipurpose organization’s name and identification number registered with the Federal Election Commission on the campaign statement.

(e) (1) A multipurpose organization that is a committee pursuant to paragraph (2), (3), (4), or (5) of subdivision (c) shall comply with the registration and reporting requirements of this chapter, subject to the following, except that if the multipurpose organization is the sponsor of a committee as described in subdivision (f) it may report required information on its sponsored committee statement pursuant to subdivision (f):

(A) The multipurpose organization shall register in the calendar year in which it satisfies any of the criteria in subdivision (c). The statement of organization filed pursuant to Section 84101 shall indicate that the organization is filing pursuant to this section as a multipurpose organization and state the organization’s nonprofit tax exempt status, if any. The statement of organization shall also describe the organization’s mission or most significant activities, and describe the organization’s political activities. A multipurpose organization may comply with the requirement to describe the mission or significant activities and political activities by referencing where the organization’s Internal Revenue Service Return of Organization Exempt From Income Tax form may be accessed.

(B) Except as provided in this subparagraph, the registration of a multipurpose organization that meets the criteria of paragraph (5) of subdivision (c) shall terminate automatically on December 31 of the calendar year in which the multipurpose organization is registered. The multipurpose organization shall not be required to file a semiannual statement pursuant to subdivision (b) of Section 84200, unless the multipurpose organization has undisclosed contributions or expenditures to report, in which case termination shall occur automatically upon filing the semiannual statement that is due no later than January 31. After the multipurpose organization’s registration has terminated, the multipurpose organization’s reporting obligations are complete, unless the organization qualifies as a committee for purposes of subdivision (a) of Section 82013 again in the following calendar year pursuant to subdivision (c) of this section. Notwithstanding this subdivision, a multipurpose organization may elect to remain registered as a committee by submitting written notification to the Secretary of State prior to the end of the calendar year.

(C) A multipurpose organization shall report all contributions received that satisfy the criteria of paragraph (2), (3), or (4) of subdivision (c) of this section in the manner required by subdivision (f) of Section 84211, and for the balance of its contributions or expenditures shall further report contributors based on a last in, first out accounting method.

(2) A multipurpose organization reporting pursuant to this subdivision shall disclose total contributions received in an amount equal to the multipurpose organization’s total contributions and expenditures made in the reporting period. When a multipurpose organization reports donors based on the last in, first out accounting method, it shall attribute to and include the information required by subdivision (f) of Section 84211 for any donor.
who donates one thousand dollars ($1,000) or more in a calendar year, except for the following:

(A) A donor who designates or restricts the donation for purposes other than contributions or expenditures.

(B) A donor who prohibits the multipurpose organization’s use of its donation for contributions or expenditures.

(C) A private foundation, as defined by subdivision (a) of Section 509 of the Internal Revenue Code, that provides a grant that does not constitute a taxable expenditure for purposes of paragraph (1) or (2) of subdivision (d) of Section 4945 of the Internal Revenue Code.

(3) A multipurpose organization that qualifies as a committee pursuant to paragraph (5) of subdivision (c) shall not be required to include contributions or expenditures made in a prior calendar year on the reports filed for the calendar year in which the multipurpose organization qualifies as a committee.

(4) If a multipurpose organization qualifies as a committee solely pursuant to paragraph (5) of subdivision (c) and the committee is required to report donors based on a last in, first out accounting method pursuant to paragraph (1), the multipurpose organization shall not be required to disclose donor information for a donation received by the multipurpose organization prior to July 1, 2014. This paragraph shall not apply with respect to a donation made by a donor who knew that the multipurpose organization would use the donation to support or oppose a candidate or ballot measure in the state by requesting that the donation be used for that purpose or by making the donation in response to a message or solicitation indicating the multipurpose organization’s intent to use the donation for that purpose.

(5) A contributor identified and reported in the manner provided in subparagraph (C) of paragraph (1) that is a multipurpose organization and receives contributions that satisfy the criteria in subdivision (c) shall be subject to the requirements of this subdivision.

(6) The commission shall adopt regulations establishing notice requirements and reasonable filing deadlines for donors reported as contributors based on the last in, first out accounting method.

(f) A multipurpose organization that is the sponsor of a committee as defined in Section 82048.7, that is a membership organization, that makes all of its contributions and expenditures from funds derived from dues, assessments, fees, and similar payments that do not exceed ten thousand dollars ($10,000) per calendar year from a single source, and that elects to report its contributions and expenditures on its sponsored committee’s campaign statement pursuant to paragraph (1) of subdivision (e) shall report as follows:

(1) The sponsored committee shall report all contributions and expenditures made from the sponsor’s treasury funds on statements and reports filed by the committee. The sponsor shall use a last in, first out accounting method and disclose the information required by subdivision (f) of Section 84211 for any person who pays dues, assessments, fees, or similar payments of one thousand dollars ($1,000) or more to the sponsor’s treasury
funds in a calendar year and shall disclose all contributions and expenditures
made, as required by subdivision (k) of Section 84211, on the sponsored
committee’s campaign statements.

(2) The sponsored committee shall report all other contributions and
expenditures in support of the committee by the sponsor, its intermediate
units, and the members of those entities. A sponsoring organization makes
contributions and expenditures in support of its sponsored committee when
it provides the committee with money from its treasury funds, with the
exception of establishment or administrative costs. With respect to dues,
assessments, fees, and similar payments channeled through the sponsor or
an intermediate unit to a sponsored committee, the original source of the
dues, assessments, fees, and similar payments is the contributor.

(3) A responsible officer of the sponsor, as well as the treasurer of the
sponsored committee, shall verify the committee’s campaign statement
pursuant to Section 81004.

(g) For purposes of this section, “last in, first out accounting method”
means an accounting method by which contributions and expenditures are
attributed to the multipurpose organization’s contributors in reverse
chronological order beginning with the most recent of its contributors or,
if there are any prior contributions or expenditures, beginning with the most
recent contributor for which unattributed contributions remain.

SEC. 7. Section 84223 is added to the Government Code, to read:
84223. (a) A committee primarily formed to support or oppose a state
ballot measure or state candidate that raises one million dollars ($1,000,000)
or more for an election shall maintain an accurate list of the committee’s
top 10 contributors, as specified by Commission regulations. A current list
of the top 10 contributors shall be provided to the Commission for disclosure
on the Commission’s Internet Web site, as provided in subdivision (c).

(b) (1) Except as provided in paragraph (4), the list of top 10 contributors
shall identify the names of the 10 persons who have made the largest
cumulative contributions to the committee, the total amount of each person’s
contributions, the city and state of the person, the person’s committee
identification number, if any, and any other information deemed necessary
by the Commission. If any of the top 10 contributors identified on the list
are committees pursuant to subdivision (a) of Section 82013, the Commission
may require, by regulation, that the list also identify the top 10 contributors
to those contributing committees.

(2) (A) A committee primarily formed to support or oppose a state ballot
measure shall count the cumulative amount of contributions received by
the committee from a person for the period beginning 12 months prior to
the date the committee made its first expenditure to qualify, support, or
oppose the measure and ending with the current date.

(B) A committee primarily formed to support or oppose a state candidate
shall count the cumulative amount of contributions received by the
committee from a person for the primary and general elections combined.
(3) The aggregation rules of Section 85311 and any implementing regulations adopted by the Commission shall apply in identifying the persons who have made the top 10 cumulative contributions to a committee.

(4) A person who makes contributions to a committee in a cumulative amount of less than ten thousand dollars ($10,000) shall not be identified or disclosed as a top 10 contributor to a committee pursuant to this section.

(c) (1) The Commission shall adopt regulations to govern the manner in which the Commission shall display top 10 contributor lists provided by a committee that is subject to this section, and the Commission shall post the top 10 contributor lists on its Internet Web site in the manner prescribed by those regulations. The Commission shall provide the top 10 contributor lists to the Secretary of State, upon the request of the Secretary of State, for the purpose of additionally posting the contributor lists on the Secretary of State’s Internet Web site.

(2) A committee shall provide an updated top 10 contributor list to the Commission when any of the following occurs:

(A) A new person qualifies as a top 10 contributor to the committee.

(B) A person who is an existing top 10 contributor makes additional contributions to the committee.

(C) A change occurs that alters the relative ranking order of the top 10 contributors.

(3) The 10 persons who have made the largest cumulative contributions to a committee shall be listed in order from largest contribution amount to smallest amount. If two or more contributors of identical amounts meet the threshold for inclusion in the list of top 10 contributors, the order of disclosure shall be made beginning with the most recent contributor of that amount.

(4) The Commission shall post or update a top 10 contributor list within five business days or, during the 16 days before the election, within 48 hours of a contributor qualifying for the list or of any change to the list.

(d) In listing the top 10 contributors, a committee shall use reasonable efforts to identify and state the actual individuals or corporations that are the true sources of the contributions made to the committee from other persons or committees.

(e) In addition to any other lists that the Commission is required to post on its Internet Web site, the Commission shall compile, maintain, and display on its Internet Web site a current list of the top 10 contributors supporting and opposing each state ballot measure, as prescribed by Commission regulations.

SEC. 8. Section 88001 of the Government Code is amended to read:

88001. The ballot pamphlet shall contain all of the following:

(a) A complete copy of each state measure.

(b) A copy of the specific constitutional or statutory provision, if any, that would be repealed or revised by each state measure.

(c) A copy of the arguments and rebuttals for and against each state measure.

(d) A copy of the analysis of each state measure.
(e) Tables of contents, indexes, art work, graphics, and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.

(g) A written explanation of the judicial retention procedure as required by Section 9083 of the Elections Code.

(h) The Voter Bill of Rights pursuant to Section 2300 of the Elections Code.

(i) If the ballot contains an election for the office of United States Senator, information on candidates for United States Senator. A candidate for United States Senator may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlet.

(j) If the ballot contains a question as to the confirmation or retention of a justice of the Supreme Court, information on justices of the Supreme Court who are subject to confirmation or retention.

(k) If the ballot contains an election for the offices of President and Vice President of the United States, a notice that refers voters to the Secretary of State’s Internet Web site for information about candidates for the offices of President and Vice President of the United States.

(l) A written explanation of the appropriate election procedures for party-nominated, voter-nominated, and nonpartisan offices as required by Section 9083.5 of the Elections Code.

(m) A written explanation of the top 10 contributor lists required by Section 84223, including a description of the Internet Web sites where those lists are available to the public.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 10. Sections 1, 6, and 7 of this act shall become operative on July 1, 2014. The changes made to Section 9084 of the Elections Code by Section 2 of this act and the changes made to Sections 82015, 82048.7, 84105, and 88001 of the Government Code by Sections 3, 4, 5, and 8 of this act shall become operative on July 1, 2014.

SEC. 11. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.
State of Tennessee

PUBLIC CHAPTER NO. 788

HOUSE BILL NO. 1943

By Representatives Hawk, Durham, Hardaway, Dunn, Haynes, Carter

Substituted for: Senate Bill No. 2072

By Senators Southerland, Summerville

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 34, Part 2, relative to civil immunity for certain actions involving a motor vehicle.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 34, Part 2, is amended by adding the following as a new section:

29-34-209.

(a) A person whose conduct conforms to the requirements of subsection (b) shall be immune from civil liability for any damage resulting from the forcible entry of a motor vehicle for the purpose of removing a minor from the vehicle.

(b) Subsection (a) applies if the person:

(1) Determines the vehicle is locked or there is otherwise no reasonable method for the minor to exit the vehicle;

(2) Has a good faith belief that forcible entry into the vehicle is necessary because the minor is in imminent danger of suffering harm if not immediately removed from the vehicle and, based upon the circumstances known to the person at the time, the belief is a reasonable one;

(3) Has contacted either the local law enforcement agency, the fire department or the 911 operator prior to forcibly entering the vehicle;

(4) Places a notice on the vehicle’s windshield with the person’s contact information, the reason the entry was made, the location of the minor and that the authorities have been notified;

(5) Remains with the minor in a safe location, out of the elements but reasonably close to the vehicle until law enforcement, fire or other emergency responder arrives; and

(6) Used no more force to enter the vehicle and remove the child from the vehicle than is necessary under the circumstances.

(c) Nothing in this section shall affect the person’s civil liability if the person attempts to render aid to the minor in addition to what is authorized by this section.

SECTION 2. This act shall take effect July 1, 2014, the public welfare requiring it.
No. 180. An act relating to a statewide policy on the use of and training requirements for electronic control devices.

(H.225)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 20 V.S.A. § 2367 is added to read:

§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES; REPORTING

(a) As used in this section:

(1) “Electronic control device” means a device primarily designed to disrupt an individual’s central nervous system by means of deploying electrical energy sufficient to cause uncontrolled muscle contractions and override an individual’s voluntary motor responses.

(2) “Law enforcement officer” means a sheriff, deputy sheriff, police officer, capitol police officer, State game warden, State Police officer, constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, and a certified law enforcement officer employed by a State branch, agency, or department, including the Department of Motor Vehicles, the Agency of Natural Resources, the Office of the Attorney General, the Department of State’s Attorney, the Secretary of State, and the Department of Liquor Control.

(b) On or before January 1, 2015, the Law Enforcement Advisory Board shall establish a statewide policy on the use of and training requirements for the use of electronic control devices. On or before January 1, 2016, every State, local, county, and municipal law enforcement agency and every
constable who is not employed by a law enforcement agency shall adopt this policy. If a law enforcement agency or officer that is required to adopt a policy pursuant to this subsection fails to do so on or before January 1, 2016, that agency or officer shall be deemed to have adopted, and shall follow and enforce, the model policy established by the Law Enforcement Advisory Board. The policy shall include the following provisions:

(1) Electronic control devices are less-lethal, but not necessarily nonlethal, alternatives to lethal force.

(2) Officers may deploy an electronic control device only:

   (A) against subjects who are exhibiting active aggression or who are actively resisting in a manner that, in the officer’s judgment, is likely to result in injuries to others or themselves; or

   (B) if, without further action or intervention by the officer, injuries to the subject or others will likely occur.

(3) Neither an officer, a subject, or a third party has actually to suffer an injury before an officer is permitted to use an electronic control device, and officers are not required to use alternatives that increase the danger to the public or themselves.

(4) When it is safe to do so, officers shall attempt to de-escalate situations and shall provide a warning prior to deploying an electronic control device.
(5) Electronic control devices shall not be used in a punitive or coercive manner and shall not be used to awaken, escort, or gain compliance from passively resisting subjects. The act of fleeing or of destroying evidence, in and of itself, does not justify the use of an electronic control device.

(6) The use of electronic control devices shall comply with all recommendations by manufacturers for the reduction of risk of injury to subjects, including situations where a subject’s physical susceptibilities are known.

(7) Electronic control devices shall be used in a manner that recognizes the potential additional risks that can result from situations:

   (A) involving persons who are in an emotional crisis that may interfere with their ability to understand the consequences of their actions or to follow directions;

   (B) involving persons with disabilities whose disability may impact their ability to communicate with an officer, or respond to an officer’s directions; and

   (C) involving higher risk populations that may be more susceptible to injury as a result of electronic control devices.

(8) Electronic control devices shall not be used on animals unless necessary to deter vicious or aggressive behavior that threatens the safety of officers or others.
(c) The Criminal Justice Training Council shall adopt rules and develop training to ensure that the policies and standards of this section are met. The Criminal Justice Training Council shall ensure that a law enforcement officer receives appropriate and sufficient training before becoming authorized to carry or use an electronic control device.

(d) On or before June 30, 2017, every State, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall ensure that all officers have completed the training established in 2004 Acts and Resolves No. 80, Sec. 13(a), and every constable who is not employed by a law enforcement agency shall have completed this training.

(e) The Criminal Justice Training Council shall coordinate training initiatives with the Department of Mental Health related to law enforcement interventions, training for joint law enforcement and mental health crisis team responses, and enhanced capacity for mental health emergency responses.

(f) Every State, local, county, and municipal law enforcement agency and every constable who is not employed by a law enforcement agency shall report all incidents involving the use of an electronic control device to the Criminal Justice Training Council in a form to be determined by the Council.

(g) The Law Enforcement Advisory Board shall:

(1) study and make recommendations as to whether officers authorized to carry electronic control devices should be required to wear body cameras;
(2) establish a policy on the calibration and testing of electronic control devices;

(3) on or before January 15, 2015, report to the House and Senate Committees on Government Operations and on Judiciary concerning the recommendations and policy developed pursuant to subdivisions (1) and (2) of this subsection; and

(4) on or before April 15, 2015, ensure that all electronic control devices carried or used by law enforcement officers are in compliance with the policy established pursuant to subdivision (2) of this subsection.

Sec. 2. REPORTS

(a) On or before January 15, 2015, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and on Judiciary on the progress made implementing the rules, training, and certification standards required by this act.

(b) On or before January 15, 2015, the Department of Mental Health shall report to the House and Senate Committees on Government Operations and on Judiciary on the adequacy of resources to support the requirements of this act.

(c) On or before March 15, 2016, and annually thereafter, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and on Judiciary all incidents involving the use of an electronic control device, a review of compliance with standards, the adequacy
of training and certification requirements, and the adequacy of funding for
mental health collaboration.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: June 10, 2014
An Act

HOUSE BILL 14-1191

also SENATOR(S) King, Heath, Herpin, Jahn, Johnston, Jones, Kefalas, Kerr, Newell, Nicholson, Schwartz, Tochtrop, Todd.

CONCERNING THE CREATION OF AN EMERGENCY ALERT PROGRAM TO NOTIFY THE PUBLIC AFTER A SERIOUS HIT-AND-RUN ACCIDENT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add 24-33.5-416.7 as follows:

24-33.5-416.7. Medina alert program - definitions - rules.
(1) The general assembly hereby finds that:

(a) A person who kills or inflicts a serious bodily injury upon a person during a motor vehicle accident and flees the scene poses a serious and imminent threat to the safety of the public;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.
(b) When a person kills or inflicts a serious bodily injury upon a person during a motor vehicle accident and flees the scene, the first few hours after the act are critically important to apprehending the person; and

(c) It is therefore necessary to create an alert system to facilitate the immediate apprehension of such persons by law enforcement agencies of the state.

(2) As used in this section, unless the context otherwise requires:

(a) "Designated broadcaster" means a broadcaster that is designated by rules promulgated pursuant to paragraph (e) of subsection (4) of this section to receive and broadcast a Medina alert.

(b) "Hit-and-run accident" means an incident when the driver of a vehicle involved in an accident fails to stop at the scene of the accident as required by section 42-4-1601, C.R.S.

(c) "Medina alert" means an alert issued by the bureau pursuant to the provisions of this section.

(d) "Notification period" means the period of time established by rules promulgated pursuant to paragraph (c) of subsection (4) of this section, during which time a Medina alert must remain effective unless it is cancelled by the bureau as described in paragraph (g) of subsection (3) of this section.

(e) "Program" means the Medina Alert Program created pursuant to paragraph (a) of subsection (3) of this section.

(f) "Serious bodily injury" has the same meaning as defined in section 42-4-1601 (4) (b), C.R.S.

(3) (a) To facilitate the immediate apprehension of persons who kill or cause serious bodily injury to another person during a hit-and-run accident, there is created the Medina Alert Program to be implemented by the bureau on and after January 1, 2015. The
PROGRAM IS A COORDINATED EFFORT AMONG THE BUREAU, LAW ENFORCEMENT AGENCIES, AND THE STATE’S PUBLIC AND COMMERCIAL TELEVISION AND RADIO BROADCASTERS.

(b) Using procedures established by rules promulgated pursuant to subsection (4) of this section, a law enforcement agency may notify the bureau after verifying that:

(I) a person has been killed or has suffered serious bodily injury during a hit-and-run accident; and

(II) the law enforcement agency has additional information concerning the suspect or the suspect’s vehicle, including but not limited to:

(A) a complete license plate number of the suspect’s vehicle;

(B) a partial license plate number and the make, style, and color of the suspect’s vehicle; or

(C) the identity of the suspect.

(c) Upon receipt of a notice from a law enforcement agency that a person has been killed or has suffered serious bodily injury during a hit-and-run accident and there is additional information concerning the suspect or the suspect’s vehicle, the bureau, using procedures established by rules promulgated pursuant to subsection (4) of this section, shall confirm the accuracy of the information and issue a Medina Alert.

(d) The bureau shall send the Medina Alert, including the notification period associated with the Medina Alert, to each designated broadcaster to be broadcast at designated intervals as specified in rules promulgated pursuant to subsection (4) of this section.

(e) A Medina Alert must include:

(I) all appropriate information that the reporting law
ENFORCEMENT AGENCY HAS THAT MAY ASSIST IN THE APPREHENSION OF THE SUSPECT OR SUSPECTS;

(II) A STATEMENT INSTRUCTING ANYONE WITH INFORMATION RELATED TO THE HIT-AND-RUN ACCIDENT TO CONTACT HIS OR HER LOCAL LAW ENFORCEMENT AGENCY; AND

(III) A WARNING THAT THE SUSPECT OR SUSPECTS ARE DANGEROUS AND THAT MEMBERS OF THE PUBLIC SHOULD NOT ATTEMPT TO APPREHEND THE SUSPECT OR SUSPECTS THEMSELVES.

(f) A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AGENCY THAT LOCATES OR APPREHENDS THE SUSPECT OR SUSPECTS SHALL NOTIFY THE BUREAU AS SOON AS PRACTICABLE OF SUCH FACT.

(g) A MEDINA ALERT IS CANCELLED WHEN THE BUREAU NOTIFIES THE DESIGNATED BROADCASTER THAT THE SUSPECT OR SUSPECTS HAVE BEEN APPREHENDED OR AT THE END OF THE NOTIFICATION PERIOD, WHICHEVER OCCURS FIRST.

(4) ON OR BEFORE JANUARY 1, 2015, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL PROMULGATE RULES IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF THIS TITLE, FOR THE IMPLEMENTATION OF THE PROGRAM. THE RULES SHALL INCLUDE BUT NEED NOT BE LIMITED TO:

(a) PROCEDURES FOR A LAW ENFORCEMENT AGENCY TO USE TO NOTIFY THE BUREAU THAT A PERSON HAS BEEN KILLED OR HAS SUFFERED SERIOUS BODILY INJURY DURING A HIT-AND-RUN ACCIDENT AND THERE IS ADDITIONAL INFORMATION CONCERNING THE SUSPECT OR THE SUSPECT’S VEHICLE;

(b) PROCEDURES FOR THE BUREAU TO FOLLOW IN CONFIRMING THE REPORTING LAW ENFORCEMENT AGENCY’S INFORMATION AND REPORTING THE INFORMATION TO EACH DESIGNATED BROADCASTER;

(c) THE ESTABLISHMENT OF A NOTIFICATION PERIOD TO BE USED FOR EACH MEDINA ALERT;

(d) THE INTERVALS AT WHICH DESIGNATED BROADCASTERS SHALL
ISSUE A MEDINA ALERT; AND

(e) A LIST OF DESIGNATED BROADCASTERS WHO HAVE VOLUNTEERED TO PARTICIPATE IN THE BROADCASTING OF MEDINA ALERTS.

(5) THE BUREAU AND THE DEPARTMENT OF TRANSPORTATION SHALL COORDINATE THE PRIORITY OF OTHER MESSAGES FOR THE PUBLIC WHEN DETERMINING WHETHER TO ISSUE A MEDINA ALERT ON THE DEPARTMENT OF TRANSPORTATION'S VARIABLE MESSAGE SIGNS.

SECTION 2. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Mark Ferrandino  Morgan Carroll
SPEAKER OF THE HOUSE  PRESIDENT OF
OF REPRESENTATIVES  THE SENATE

Marilyn Eddins  Cindi L. Markwell
CHIEF CLERK OF THE HOUSE  SECRETARY OF
OF REPRESENTATIVES  THE SENATE

APPROVED

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO
Senate Bill No. 606

CHAPTER 348

An act to amend Section 11414 of the Penal Code, relating to harassment.

[Approved by Governor September 24, 2013. Filed with Secretary of State September 24, 2013.]

LEGISLATIVE COUNSEL’S DIGEST

SB 606, De León. Harassment: child or ward.

Under existing law, any person who intentionally harasses the child or ward of any other person because of that person’s employment is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding 6 months, or by a fine not exceeding $1,000, or both. Under existing law, that crime is punishable by mandatory imprisonment in a county jail for not less than 5 days for a 2nd conviction, and by mandatory imprisonment in a county jail for not less than 30 days for a 3rd or subsequent conviction.

This bill would make a violation of the above provisions punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding $10,000, or by both that fine and imprisonment for a first conviction. For a 2nd conviction, the bill would require a fine not exceeding $20,000 and imprisonment in a county jail for a period of not less than 5 days but not exceeding one year. For a 3rd or subsequent conviction, the bill would require a fine not exceeding $30,000 and imprisonment in a county jail for a period of not less than 30 days but not exceeding one year.

The bill would specify that harassment means knowing and willful conduct directed at a specific child or ward that seriously alarms, annoys, torments, or terrorizes the child or ward, and that serves no legitimate purpose, including, but not limited to, that conduct occurring during the course of any actual or attempted recording of the child’s or ward’s image or voice without the written consent of the child’s or ward’s parent or legal guardian, by following the child’s or ward’s activities or by lying in wait. The bill would specify that, upon a violation of the above provisions, a parent or legal guardian of an aggrieved child or ward may bring a civil action against the violator on behalf of the child or ward for specified remedies. The bill would additionally provide that the act of transmitting, publishing, or broadcasting a recording of the image or voice of a child does not constitute commission of the offense.

By increasing the punishment for a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.
This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 11414 of the Penal Code is amended to read:

11414. (a) Any person who intentionally harasses the child or ward of any other person because of that person’s employment shall be punished by imprisonment in a county jail not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both that fine and imprisonment.

(b) For purposes of this section, the following definitions shall apply:

1) “Child” and “ward” mean a person under 16 years of age.

2) “Harasses” means knowing and willful conduct directed at a specific child or ward that seriously alarms, annoys, torments, or terrorizes the child or ward, and that serves no legitimate purpose, including, but not limited to, that conduct occurring during the course of any actual or attempted recording of the child’s or ward’s image or voice, or both, without the express consent of the parent or legal guardian of the child or ward, by following the child’s or ward’s activities or by lying in wait. The conduct must be such as would cause a reasonable child to suffer substantial emotional distress, and actually cause the victim to suffer substantial emotional distress.

3) “Employment” means the job, vocation, occupation, or profession of the parent or legal guardian of the child or ward.

(c) A second conviction under this section shall be punished by a fine not exceeding twenty thousand dollars ($20,000) and by imprisonment in a county jail for not less than five days but not exceeding one year. A third or subsequent conviction under this section shall be punished by a fine not exceeding thirty thousand dollars ($30,000) and by imprisonment in a county jail for not less than 30 days but not exceeding one year.

(d) Upon a violation of this section, the parent or legal guardian of an aggrieved child or ward may bring a civil action against the violator on behalf of the child or ward. The remedies in that civil action shall be limited to one or more of the following: actual damages, punitive damages, reasonable attorney’s fees, costs, disgorgement of any compensation from the sale, license, or dissemination of a child’s image or voice received by the individual who, in violation of this section, recorded the child’s image or voice, and injunctive relief against further violations of this section by the individual.

(e) The act of transmitting, publishing, or broadcasting a recording of the image or voice of a child does not constitute a violation of this section.

(f) This section does not preclude prosecution under any section of law that provides for greater punishment.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that
may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
Senate Bill 200 Summary

Key Points:

- SB 200 provides for a more effective use of resources to hold offenders accountable, achieve better outcomes for youth in the juvenile justice system and their families, and maintain public safety.
- The provisions in the bill are based on recommendations from a bi-partisan, inter-branch task force and extensive stakeholder input.
- The bill addresses three key questions to ensure improved effectiveness and outcomes:
  1. Are the right resources used on the right youth to produce better outcomes? The bill focuses the most expensive resources on more serious offenders by placing restrictions on the commitment of lower level offenders and the length of time they may be placed out-of-home.
  2. Does Kentucky use timely, quality treatment and supervision to hold youth accountable? The bill provides for earlier access to treatment and supervision and increases funding for high quality services in local communities.
  3. How will we know if it is working? The bill establishes oversight and performance measurement for the policies.

Unified Juvenile Code Task Force

The task force on the Unified Juvenile Code (task force) reviewed the state’s juvenile justice system and developed data driven policy recommendations that hold offenders accountable, improve outcomes for children and families, maintain public safety and control costs in the juvenile justice system.

It conducted an extensive review of Kentucky juvenile justice data, an assessment of the juvenile justice system, and a review of the research. The task force reviewed issues relating to both public and status offenses. (A status offense is one that is an offense only because of the person’s age, such as truancy or running away.) It also heard information provided by a variety of juvenile justice stakeholders and members of the task force itself.

Task Force Findings

The task force analysis led to findings in four areas:

- Kentucky is spending significant resources on out-of-home residential placement for low-level status and public offenders. More than half of the Department of Juvenile Justice’s (DJJ) $102 million annual budget goes to secure and non-secure residential facilities that cost an average of $87,000 per bed per year. In addition, the Department for Community Based Services (DCBS) spent an estimated $6 million in fiscal year 2012 for out-of-home placement of status offenders.
- Lower-level offenses comprise a significant and growing share of the juvenile justice system. Misdemeanants and violators make up the majority of youth in each type of out-of-home placement, and more than 80 percent of misdemeanants and violators had two or fewer prior adjudications.
- The length of time violators and misdemeanants spend in out-of-home facilities is the about the same as those adjudicated on felony offenses and has increased 31 percent and 21 percent, respectively, over the past decade. Hundreds of status offenders are spending 8 ½ months out-of-home following commitments to DCBS, and many are spending time in detention as well.
- A lack of services and alternatives in the community has likely contributed to more expensive commitments to DJJ and DCBS and more youth being placed out-of-home.

SB 200 and Expected Impact

The legislation would:

- Focus the most expensive resources on the more serious offenders.
- Increase and strengthen evidenced-based programs, practices and policies in local communities.
- Improve government performance.

The reforms are projected to reduce DJJ’s out-of-home population by one-third. The bill requires evaluation of facility utilization, and puts the state in the position to potentially reduce capacity or close facilities. The potential savings from the public offense reforms could total up to $24 million over five years. These savings may be reinvested to expand community-based programs and proven practices. The shift of lower-level youth and resources from out-of-home placement to evidence-based community programs will lead to safer communities and better outcomes for Kentucky youth and their families.
**Summary of Senate Bill 200:**

**Focuses the Most Expensive Resources on the More Serious Offenders**
- **Enhances the Court Designated Worker (CDW) procedure and establishes a review process.** The bill enhances the current CDW process by requiring that evidence-based assessments, practices, and programs be utilized to provide interventions that are consistent with what research indicates will lead to improved outcomes. A review process is established to provide oversight to the work of the CDW and provide recommendations. Court remains an option for cases that are unsuccessful in this process.
- **Restricts commitment of lower-level offenders in certain instances.** The bill restricts misdemeanor and Class D felony offenders from being committed to DJJ unless they have been adjudicated for a deadly weapon offense, an offense that would classify the juvenile as a sex offender, or unless they have three or more prior adjudications.
- **Limits the length of out-of-home placement and length of supervision based on seriousness of the offense and risk to reoffend.** The bill requires DJJ to develop case plans using evidence-based tools that take into consideration the juvenile’s risk level and the seriousness of the offense. Limits are placed on the amount of time the juvenile may be held in out-of-home placement by DJJ for treatment and the total amount of time the youth may be committed or probated to DJJ. Limits are also placed on the length of time a juvenile may be on court supervision.
- **Limits out-of-home placements as a sanction for supervision violations.** The purpose of sanctions for supervision violations is to encourage compliance with the terms of supervision. The bill requires the use of graduated sanctions to encourage compliance and, if not successful, permits detention for up to thirty (30) days. Supervision violations may not be used to commit, or recommit, a child to the DJJ.

**Increases and Strengthens Evidence-Based Programs, Practices and Policies in Local Communities**
- **Requires use of objective, evidence-based tools in decision-making.** Evidence-based screening and assessment tools must be utilized by court workers and DJJ staff to guide treatment, supervision and placement decisions. Validated risk and needs assessments are required to be utilized if available. Results of a validated risk and needs assessment must also be provided to the court prior to disposition.
- **Establishes the fiscal incentive program to increase funding for services in local communities.** Two grant programs are established to increase resources for communities to provide local services to juveniles and their families. Ninety percent of the funding will be allocated to a competitive grant program to reduce the number of juveniles committed or detained and to reduce the number of diversion-eligible cases that are brought into court. The remaining ten percent of funding will be allocated to a second program available to judicial districts that did not receive grant funding to provide services to youth on an as-needed basis in exceptional cases.
- **Increases engagement and accountability of families.** The bill provides for increased involvement of families.

**Improves Government Performance**
- **Requires improved data collection and reporting to measure outcomes.** The bill requires increased data collection and reporting to measure the results of the programs and policies to ensure that they are achieving the results intended. The bill also requires the state to track juvenile recidivism outcomes.
- **Establishes an Oversight Council.** The bill establishes an Oversight Council to oversee implementation of the bill, review the performance data, and make recommendations for changes or improvements based on the data. The Oversight Council will also continue to review juvenile justice and education issues that were not addressed by this task force, such as graduated response protocols for schools, and out-of-home placement of status offenders.
- **Requires DJJ to evaluate the use of its facilities.** The bill requires DJJ to evaluate its secure and non-secure facilities once the population is reduced to consider changes in the utilization of facilities or the potential for closure of facilities if appropriate. Savings achieved from any closures are to be reinvested into supervision and treatment services in the community.
- **Increase training and education.** The bill requires juvenile justice involved agencies to increase training and education of workers to improve the quality of services and to improve outcomes.
AN ACT relating to voyeurism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

⇒ Section 1. KRS 531.090 is amended to read as follows:

(1) A person is guilty of voyeurism when:

(a) He or she intentionally:

1. Uses or causes the use of any camera, videotape, photooptical, photoelectric, or other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping the sexual conduct, genitals, an undergarment worn without being publicly visible, or nipple of the female breast of another person without that person's consent; or

2. Uses the unaided eye or any device designed to improve visual acuity for the purpose of observing or viewing the sexual conduct, genitals, an undergarment worn without being publicly visible, or nipple of the female breast of another person without that person's consent; or

3. Enters or remains unlawfully in or upon the premises of another for the purpose of observing or viewing the sexual conduct, genitals, an undergarment worn without being publicly visible, or nipple of the female breast of another person without the person's consent; and

(b) The other person is in a place where a reasonable person would believe that his or her sexual conduct, genitals, undergarments, or nipple of the female breast will not be observed, viewed, photographed, filmed, or videotaped without his or her knowledge.

(2) The provisions of subsection (1) of this section shall not apply to:

(a) A law enforcement officer during a lawful criminal investigation; or

(b) An employee of the Department of Corrections, the Department of Juvenile Justice, a private prison, a local jail, or a local correctional facility whose
actions have been authorized for security or investigative purposes.

(3) Unless objected to by the victim or victims of voyeurism, the court on its own motion or on motion of the Commonwealth's attorney shall:

(a) Order the sealing of all photographs, film, videotapes, or other images that are introduced into evidence during a prosecution under this section or are in the possession of law enforcement, the prosecution, or the court as the result of a prosecution under this section; and

(b) At the conclusion of a prosecution under this section, unless required for additional prosecutions, order the destruction of all of the photographs, film, videotapes, or other images that are in possession of law enforcement, the prosecution, or the court.

(4) Voyeurism is a Class A misdemeanor.
AN ACT relating to a crime victim address protection program within the Department of State.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act unless the context otherwise requires:

(1) "Address" means a residential street address, school address, or work address of an individual, as specified on the application of an individual to be a program participant under this section;

(2) "Applicant" means a person applying for certification in the address confidentiality program under Sections 1 to 10 of this Act;

(3) "Criminal offense against a victim who is a minor" has the same meaning as in KRS 17.500;

(4) "Domestic violence and abuse" has the same meaning as in KRS 403.720;

(5) "Program participant" means a person certified as a program participant under Sections 1 to 10 of this Act;

(6) "Sex crime" means an offense or an attempt to commit an offense defined in:

(a) KRS Chapter 510;

(b) KRS 530.020;

(c) KRS 530.064(1)(a);

(d) KRS 531.310;

(e) KRS 531.320; or

(f) Any criminal attempt to commit an offense specified in this subsection, regardless of the penalty for the attempt;

(7) "Specified offense" means:

(a) Domestic violence and abuse;

(b) Stalking;
(c) A sex crime;
(d) A criminal offense against a victim who is a minor;
(e) A similar federal offense; or
(f) A similar offense from another state or territory; and
(8) "Stalking" means conduct prohibited under KRS 508.140 and 508.150.

SECTION 2. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

(1) On or after July 1, 2013, the Secretary of State shall create a crime victim address protection program.

(2) The crime victim address protection program shall be open to victims of a specified offense who are United States citizens and residents of Kentucky, without any cost to the program participant.

(3) The Secretary of State shall require that each person employed in the Office of the Secretary of State directly responsible for the administration of the crime victim address protection program submit his or her fingerprints to the Department of State. The Department of State shall exchange fingerprint data with the Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of each employee directly responsible for the administration of the program.

SECTION 3. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

(1) Upon the creation of the crime victim address protection program, an applicant, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of a person who is declared incompetent, or a designee of an applicant or a parent or guardian of a minor or a guardian of a person declared incompetent who cannot for any reason apply themselves, may apply to the Secretary of State to have an address designated by the Secretary of State serve for voting purposes as the
address of the applicant, the minor, or the incompetent person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State by administrative regulation and if it contains:

(a) A sworn statement by the applicant that:

1. The applicant or the minor or the incompetent person on whose behalf the application is made is a victim of a specified offense in an ongoing criminal case or in a criminal case that resulted in a conviction by a judge or jury or by a defendant's guilty plea; or

2. The applicant or the minor or the incompetent person on whose behalf the application is made has been granted an emergency protective order or a domestic violence order under KRS Chapter 403 by a court of competent jurisdiction within the Commonwealth of Kentucky and the order is in effect at the time of application;

(b) A sworn statement by the applicant that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made.

(c) The mailing address and the phone number or numbers where the applicant can be contacted by the Secretary of State;

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of a specified offense; and

(e) The signature of the applicant and of a representative of any office designated under Section 6 of this Act as a referring agency who assisted in the preparation of the application, and the date on which the applicant signed the application.
(2) Applications shall be filed with the Office of the Secretary of State.

(3) Upon the filing of a properly completed application, the Secretary of State shall certify the applicant as a program participant if the applicant is not required to register as a sex offender or is not otherwise prohibited from participating in the program.

(4) Applicants shall be certified for two (2) years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall promulgate an administrative regulation to establish a renewal procedure.

(5) A person who falsely attests in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application may be found guilty of a violation of KRS 523.030.

(6) The addresses of individuals applying for entrance into the crime victim address confidentiality program and the addresses of those certified as program participants shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to KRS 61.884.

(7) A program participant shall notify the Office of the Secretary of State of a change of address within seven (7) days of the change of address.

SECTION 4. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State may cancel certification of a program participant if within fourteen (14) days:

(a) From the date of the program participant changing his or her name, the program participant fails to notify the Secretary of State that he or she has obtained a name change; however, the program participant may reapply
(b) From the date of changing his or her address, the program participant fails to notify the Secretary of State of the change of address.

(2) The Secretary of State shall cancel certification of a program participant who applies using false information.

(3) The Secretary of State shall send notice of certification cancellation to the program participant. The notice of certification cancellation shall set out the reasons for cancellation. The program participant has the right to appeal the decision within thirty (30) days under procedures established by the Office of the Secretary of State by administrative regulation.

(4) The Secretary of State shall cancel certification of a program participant who is required to register as a sex offender.

(5) A program participant may withdraw from the program by providing the Secretary of State with notice of his or her intention to withdraw from the program. The Secretary of State shall promulgate by administrative regulations a secure procedure by which to ensure that the program participant's request for withdrawal is legitimate.

SECTION 5. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

The Secretary of the State shall not make available for inspection or copying any records in a file of a program participant, other than the address designated by the Secretary of State, except under the following circumstances:

(1) If directed by a court order signed by a judge or justice of a court of competent jurisdiction within the Commonwealth of Kentucky; or

(2) Upon written request by the chief law enforcement officer of a city or county, or the commander of a Department of Kentucky State Police post or branch, if related to an ongoing official investigation. Requests shall include the reason the
information is needed by the law enforcement agency.

SECTION 6. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

The Secretary of State shall establish a list of state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of a specified offense to assist persons applying to be program participants. Any assistance and counseling rendered to applicants by the Office of the Secretary of State or its designees shall in no way be construed as legal advice.

SECTION 7. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

(1) A program participant who is otherwise qualified to vote may register to vote and apply for and submit a mail-in absentee ballot under this section.

(2) Using the authority granted under subsection (1) of Section 10 of this Act, the State Board of Elections shall design a system allowing a county clerk to shield from public view all voting records of a program participant, including the name and address of a program participant, and allowing a program participant to vote by mail-in absentee ballot. This authority may be used to modify statutory or regulatory requirements that would lead to disclosure of the program participant's name and address, but shall not include authority to waive or modify any other requirements relative to the program participant's qualifications to vote, including age and geographic residency.

(3) The program participant may receive mail-in absentee ballots for all elections in the jurisdiction in which that individual resides in the same manner as a person requesting an absentee ballot under subsection (1)(a) of Section 11 of this Act. The county clerk shall transmit a mail-in absentee ballot to the program participant at the address designated by the participant in his or her application.

(4) Neither the name nor the address of a program participant shall be included in
any list of registered voters available to the public, including any list inspected under KRS 116.095.

SECTION 8. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter, nor participation in the program created in this chapter, shall affect custody or visitation orders in effect prior to or during program participation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

No actionable duty or any right of action shall accrue against the state, a county, a municipality, an agency of the state or county or municipality, or an employee of the state or county or municipality in the event of negligent disclosure of a program participant's actual address.

SECTION 10. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

(1) The State Board of Elections may promulgate administrative regulations to implement Sections 7 and 11 of this Act.

(2) The Secretary of State may promulgate administrative regulations to implement Sections 1 to 6, 8, and 9 of this Act.

Section 11. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, by electronic mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail to the voter or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The
absentee ballot application may be requested by the voter or the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, military personnel confined to a military base on election day, and persons who qualify under paragraph (a)7. of this subsection, absentee ballots shall not be mailed to a voter's residential address located in the county in which the voter is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his or her application.

(a) The following voters may apply to cast their votes by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election:

1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
2. Voters who are residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
3. Voters who are students who temporarily reside outside the county of their residence;
4. Voters who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime;
5. Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, who shall be permitted to cast an absentee ballot for electors for President and Vice President of the United States only;
6. Voters who temporarily reside outside the state but who are still eligible to vote in this state;

7. Voters who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office; and

8. Voters who are program participants in the Secretary of State's victim address confidentiality protection program as authorized by Section 7 of this Act.

(b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his or her seal to the application form upon receipt.

(c) Absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.

(d) Any qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of this subsection who will be absent from the
AN ACT relating to human trafficking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

⇒ SECTION 1. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

(1) When a person is charged or convicted under this chapter, or with an offense which is not a violent crime as defined in KRS 17.165, and the person's participation in the offense is determined to be the direct result of being a victim of human trafficking, the person may make a motion in the court in which the charges were filed to expunge all records of the offense.

(2) The motion shall be filed no sooner than sixty (60) days following the date the final judgment was entered by the court in which the charges were filed.

(3) (a) A motion filed under this section, any hearing conducted on the motion, and any relief granted, are governed by KRS 431.076, 431.078, and 431.079 unless otherwise provided in this section.

(b) For the purposes of expungement under KRS 431.076, a finding by the court that the person’s participation in the offense was a direct result of being a victim of human trafficking shall deem the charges as dismissed with prejudice.

(c) No official determination or documentation is required to find that the person’s participation in the offense was a direct result of being a victim of human trafficking, but documentation from a federal, state, local, or tribal governmental agency indicating that the defendant was a victim at the time of the offense shall create a presumption that the defendant's participation in the offense was a direct result of being a victim.

⇒ SECTION 2. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

A person charged under this chapter, or charged with an offense which is not a violent
crime as defined in KRS 17.165, may assert being a victim of human trafficking as an affirmative defense to the charge.
AN ACT

To repeal sections 208.024 and 208.027, RSMo, and to enact in lieu thereof six new sections relating to public assistance benefits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 208.024 and 208.027, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 208.018, 208.024, 208.027, 208.141, 208.238, and 208.247, to read as follows:

208.018. 1. Subject to federal approval, the department of social services shall establish a pilot program for the purpose of providing Supplemental Nutrition Assistance Program (SNAP) participants with access and the ability to afford fresh food when purchasing fresh food at farmers' markets. The pilot program shall be established in at least one rural area and one urban area. Under the pilot program, such participants shall be able to:

(1) Purchase fresh fruit, vegetables, meat, fish, poultry, eggs, and honey with SNAP benefits with an electronic benefit transfer (EBT) card; and

(2) Receive a dollar-for-dollar match for every SNAP dollar spent at a participating farmers’ market or vending urban agricultural zone as defined in section 262.900 in an amount up to ten dollars per week whenever the participant purchases fresh food with an EBT card.

2. For purposes of this section, the term “farmers’ market” shall mean a market with multiple stalls at which farmer-producers sell

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.
agricultural products, particularly fresh fruit and vegetables, directly to the general public at a central or fixed location.

3. Purchases of approved fresh food by SNAP participants under this section shall automatically trigger matching funds reimbursement into the central vendor accounts by the department.

4. The funding of this pilot program shall be subject to appropriation. In addition to appropriations from the general assembly, the department may apply for available grants and shall be able to accept other gifts, grants, and donations to develop and maintain the program.

5. The department shall promulgate rules setting forth the procedures and methods of implementing this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be invalid and void.

6. Under section 23.253 of the Missouri sunset act:

   (1) The provisions of this section shall sunset automatically six years after the effective date of this section unless reauthorized by an act of the general assembly; and

   (2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

   (3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

208.024. 1. Eligible recipients of temporary assistance for needy families (TANF) or supplementary nutrition assistance program (SNAP) benefits shall not use such funds in any electronic benefit transfer transaction in any liquor store, casino, gambling casino, or gaming establishment, any retail
establishment which provides adult-oriented entertainment in which performers
disrobe or perform in an unclothed state for entertainment, or in any place for
the purchase of alcoholic beverages, lottery tickets, or tobacco products
or for any item [that is] the department determines by rule is primarily
marketed for or used by adults eighteen or older [and/or] and is not in the best
interests of the child or household. An eligible recipient of TANF or SNAP
assistance who makes a purchase in violation of this section shall reimburse the
department of social services for such purchase.

2. An individual, store owner or proprietor of an establishment shall not
knowingly accept TANF cash assistance or supplementary nutrition
assistance program (SNAP) funds held on electronic benefit transfer cards for
the purchase of alcoholic beverages, lottery tickets, or tobacco products or for use
in any electronic benefit transfer transaction in any liquor store, casino, gambling
casino, or gaming establishment, any retail establishment which provides adult-
oriented entertainment in which performers disrobe or perform in an unclothed
state for entertainment, or in any place for the purchase of alcoholic
beverages, lottery tickets, or tobacco products or for any item [that is] the
department determines by rule is primarily marketed for or used by adults
eighteen or older [and/or] and is not in the best interests of the child or
household. No store owner or proprietor of any liquor store, casino,
gambling casino, gaming establishment, or any retail establishment
which provides adult-oriented entertainment in which performers
disrobe or perform in an unclothed state for entertainment shall adopt
any policy, either explicitly or implicitly, which encourages, permits,
or acquiesces in its employees knowingly accepting electronic benefit
transfer cards in violation of this section. This section shall not be
construed to require any store owner or proprietor of an establishment
which is not a liquor store, casino, gambling casino, gaming
establishment, or retail establishment which provides adult-oriented
entertainment in which performers disrobe or perform in an unclothed
state for entertainment to check the source of payment from every
individual who purchases alcoholic beverages, lottery tickets, tobacco
products, or any item the department determines by rule is primarily
marketed for or used by adults eighteen or older and is not in the best
interests of the child or household. An individual, store owner or proprietor
of an establishment who knowingly accepts electronic benefit transfer cards in violation of this section shall be punished by a fine of not more than five hundred dollars for the first offense, a fine of not less than five hundred dollars nor more than one thousand dollars for the second offense, and a fine of not less than one thousand dollars for the third or subsequent offense.

3. Any recipient of TANF or SNAP benefits who does not make at least one electronic benefit transfer transaction within the state for a period of ninety days shall have his or her benefit payments to the electronic benefit account temporarily suspended, pending an investigation by the department of social services to determine if the recipient is no longer a Missouri resident. If the department finds that the recipient is no longer a Missouri resident, it shall close the recipient’s case. Closure of a recipient’s case shall trigger the automated benefit eligibility process under section 208.238. A recipient may appeal the closure of his or her case to the director under section 208.080.

4. A recipient who does not make an electronic benefit transfer transaction within the state for a period of sixty days shall be provided notice of the possibility of the suspension of funds if no electronic benefit transfer transaction occurs in the state within another thirty days after the date of the notice.

5. For purposes of this section:
   (1) The following terms shall mean:
      (a) "Electronic benefit transfer transaction", the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service; and
      (b) "Liquor store", any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods as outlined under the Food and Nutrition Act of 2008;
   (2) Casinos, gambling casinos, or gaming establishments shall not include:
      (a) A grocery store which sells groceries including staple foods, and which also offers, or is located within the same building or complex as a casino, gambling, or gaming activities; or
(b) Any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

208.027. 1. The department of social services shall develop a program to screen each applicant or recipient who is otherwise eligible for temporary assistance for needy families benefits under this chapter, and then test, using a urine dipstick five panel test, each one who the department has reasonable cause to believe, based on the screening or other information, engages in illegal use of controlled substances. Any applicant or recipient who is found to have tested positive for the use of a controlled substance, which was not prescribed for such applicant or recipient by a licensed health care provider, or who refuses to submit to a test, shall[, after an administrative hearing conducted by the department under the provisions of chapter 536,] be declared ineligible for temporary assistance for needy families benefits for a period of three years from the date of the positive test, test refusal, or administrative hearing decision, if requested by the applicant or recipient under subsection 2 of this section, unless such applicant or recipient, after having been referred by the department, enters and successfully completes a substance abuse treatment program and does not test positive for illegal use of a controlled substance in the six-month period beginning on the date of entry into such rehabilitation or treatment program. The applicant or recipient shall continue to receive benefits while participating in the treatment program. The department may test the applicant or recipient for illegal drug use at random or set intervals, at the department's discretion, after such period. If the applicant or recipient tests positive for the use of illegal drugs a second time, then such applicant or recipient shall be declared ineligible for temporary assistance for needy families benefits for a period of three years from the date of the positive test, test refusal, or administrative hearing decision, if requested by the applicant or recipient under subsection 2 of this section. The department shall refer an applicant or recipient who tested positive for the use of a controlled substance under this section to an appropriate substance abuse treatment program approved by the division of alcohol and drug abuse within the department of mental health.

2. An applicant or recipient who is found to have tested positive or who refuses to submit to a test under subsection 1 of this section may request that an administrative hearing be conducted by the department under the provisions of section 208.080, and if requested,
such hearing shall be conducted.

3. Case workers of applicants or recipients shall be required to report or cause a report to be made to the children's division in accordance with the provisions of sections 210.109 to 210.183 for suspected child abuse as a result of drug abuse in instances where the case worker has knowledge that:

(1) An applicant or recipient has tested positive for the illegal use of a controlled substance; or

(2) An applicant or recipient has refused to be tested for the illegal use of a controlled substance.

[3.] 4. Other members of a household which includes a person who has been declared ineligible for temporary assistance for needy families assistance shall, if otherwise eligible, continue to receive temporary assistance for needy families benefits as protective or vendor payments to a third-party payee for the benefit of the members of the household.

[4.] 5. The department of social services shall promulgate rules to develop the screening and testing provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, [2011] 2014, shall be invalid and void.

208.141. 1. The department of social services shall reimburse a hospital for prescribed medically necessary donor human breast milk provided to a MO HealthNet participant if:

(1) The participant is an infant under the age of three months;

(2) The participant is critically ill;

(3) The participant is in the neonatal intensive care unit of the hospital;

(4) A physician orders the milk for the participant;

(5) The department determines that the milk is medically necessary for the participant;

(6) The parent or guardian signs and dates an informed consent
form indicating the risks and benefits of using banked donor human milk; and

(7) The milk is obtained from a donor human milk bank that meets the quality guidelines established by the department.

2. An electronic web-based prior authorization system using the best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need.

3. The department shall promulgate rules for the implementation of this section, including setting forth rules for the required documentation by the physician and the informed consent to be provided to and signed by the parent or guardian of the participant.

Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable, and if any of the powers vested with the general assembly under chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be invalid and void.

208.238. The department of social services shall implement an automated process to ensure applicants applying for benefit programs are eligible for such programs. The automated process shall be designed to periodically review current beneficiaries to ensure that they remain eligible for benefits they are receiving. The system shall check applicant and recipient information against multiple sources of information through an automated process. If the automated process shows the recipient is no longer eligible for one benefit program, the department shall determine what other benefit programs shall be closed to the recipient.

208.247. 1. Pursuant to the option granted the state by 21 U.S.C. Section 862a(d), an individual who has pled guilty or nolo contendere to or is found guilty under federal or state law of a felony involving possession or use of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. Section 862a(a) against eligibility for
food stamp program benefits for such convictions, if such person, as determined by the department:

(1) Meets one of the following criteria:
   (a) Is currently successfully participating in a substance abuse treatment program approved by the division of alcohol and drug abuse within the department of mental health; or
   (b) Is currently accepted for treatment in and participating in a substance abuse treatment program approved by the division of alcohol and drug abuse, but is subject to a waiting list to receive available treatment, and the individual remains enrolled in the treatment program and enters the treatment program at the first available opportunity; or
   (c) Has satisfactorily completed a substance abuse treatment program approved by the division of alcohol and drug abuse; or
   (d) Is determined by a division of alcohol and drug abuse certified treatment provider not to need substance abuse treatment; and

(2) Is successfully complying with, or has already complied with, all obligations imposed by the court, the division of alcohol and drug abuse, and the division of probation and parole; and

(3) Does not plead guilty or nolo contendere to or is not found guilty of an additional controlled substance misdemeanor or felony offense after release from custody or, if not committed to custody, such person does not plead guilty or nolo contendere to or is not found guilty of an additional controlled substance misdemeanor or felony offense, within one year after the date of conviction. Such a plea or conviction within the first year after conviction shall immediately disqualify the person for the exemption; and

(4) Has demonstrated sobriety through voluntary urinalysis testing paid for by the participant.

2. Eligibility based upon the factors in subsection 1 of this section shall be based upon documentary or other evidence satisfactory to the department of social services, and the applicant shall meet all other factors for program eligibility.

3. The department of social services, in consultation with the division of alcohol and drug abuse, shall promulgate rules to carry out
the provisions of this section including specifying criteria for
determining active participation in and completion of a substance
abuse treatment program.

4. The exemption under this section shall not apply to an
individual who has pled guilty or nolo contendere to or is found guilty
of two subsequent felony offenses involving possession or use of a
controlled substance after the date of the first controlled substance
felony conviction.
AN ACT relating to adult abuse, neglect, and exploitation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

⇒ SECTION 1. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Employee" means a person who:

1. Is hired directly or through a contract by a vulnerable adult services provider who has duties that involve or may involve one-on-one contact with a patient, resident, or client; or

2. Is a volunteer who has duties that are equivalent to the duties of an employee providing direct services and the duties involve, or may involve, one-on-one contact with a patient, resident, or client;

(b) "Validated substantiated finding of adult abuse, neglect, or exploitation" means that the cabinet has:

1. Entered a final order concluding by a preponderance of the evidence that an individual has committed adult abuse, neglect, or exploitation against a different adult for whom the individual was providing care or services as an employee or otherwise with the expectation of compensation;

2. The individual has been afforded an opportunity for an administrative hearing under procedures compliant with KRS Chapter 13B, and an appeal to the Circuit Court of the county where the abuse, neglect, or exploitation is alleged to have occurred or, if the individual consents, to the Franklin Circuit Court; and

3. That any appeal, including the time allowed for filing an appeal, has concluded or expired; and

(c) "Vulnerable adult service provider" means:
1. Adult day health care program centers as defined in KRS 216B.0441;
2. Adult day training facilities;
3. Assisted-living communities as defined in KRS 194A.700;
4. Boarding homes as defined in KRS 216B.300;
5. Group homes for individuals with an intellectual disability and developmentally disabled (ID/DD);
6. Home health agencies as defined in KRS 216.935;
7. Hospice programs or residential hospice facilities licensed under KRS Chapter 216B;
8. Long-term-care hospitals as defined in 42 U.S.C. sec. 1395ww(d)(1)(B)(iv);
9. Long-term-care facilities as defined in KRS 216.510;
10. Personal services agencies as defined in KRS 216.710;
11. Providers of home and community-based services authorized under KRS Chapter 205, including home and community based waiver services and supports for community living services; and

(2) A vulnerable adult services provider shall query the cabinet as to whether a validated substantiated finding of adult abuse, neglect, or exploitation has been entered against an individual who is a bona fide prospective employee of the provider. The provider may periodically submit similar queries as to its current employees and volunteers. The cabinet shall reply to either type of query only that it has or has not entered such a finding against the named individual.

(3) An individual may query the cabinet as to whether the cabinet's records indicate that a validated substantiated finding of adult abuse, neglect, or exploitation has been entered against him or her. The cabinet shall reply only that it has or has not entered such a finding against the named individual, although this limitation
shall not be construed to prevent the individual who is the subject of the investigation from obtaining cabinet records under other law, including the Kentucky Open Records Act. An individual making a query under this subsection may direct that the results of the query be provided to an alternative recipient seeking to utilize the care or services of the querying individual.

(4) Every cabinet investigation of adult abuse, neglect, or exploitation committed by an employee or a person otherwise acting with the expectation of compensation shall be conducted in a manner affording the individual being investigated the level of due process required to qualify any substantiated finding as a validated substantiated finding of adult abuse, neglect, or exploitation.

(5) The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be:

(a) An error resolution process allowing an individual whose name is erroneously reported to have been the subject of a validated substantiated finding of adult abuse, neglect, or exploitation to request the correction of the cabinet's records; and

(b) A designation of the process by which queries may be submitted in accordance with this section, which shall require that the queries be made using a secure methodology and only by providers and persons authorized to submit a query under this section.

(6) If the cabinet does not respond to a query under subsection (2) of this section within twenty-four (24) hours and a vulnerable adult services provider hires or utilizes an employee provisionally, the provider shall not be subject to liability solely on the basis of hiring or utilizing the employee before having received the cabinet’s response.

(7) This section shall only apply to instances of abuse, neglect, or exploitation substantiated on or after the effective date of this Act, which shall be compiled
into a central registry for the purpose of queries submitted under this section.
AN ACT relating to parental rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 403.270 TO 403.350 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth recognizes that certain victims of sexual assault may conceive a child as a result of the sexual assault and may choose to bear and raise the child. The Commonwealth also recognizes that victims of a sexual assault who have elected to raise a child born as a result of the sexual assault, as well as that child, may suffer serious emotional or physical trauma if the perpetrator of the assault is granted parental rights with the child.

(2) Except as provided in subsection (3) of this section, any person who has been convicted of a felony offense under KRS Chapter 510, in which the victim of that offense has conceived and delivered a child, shall not have custody or visitation rights, or the right of inheritance under KRS Chapter 391 with respect to that child.

(3) The mother of the child may waive the protection afforded under subsection (2) of this section regarding visitation and request that the court grant reasonable visitation rights with the child if paternity has been acknowledged.

(4) Unless waived by the mother and, if applicable, the public agency substantially contributing to the support of the child, a court shall establish a child support obligation against the father of the child pursuant to KRS 403.211.

SECTION 2. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, any person who has been convicted of a felony offense under KRS Chapter 510, in which the victim of that offense has conceived and delivered a child, shall not have custody or visitation rights, or the right of inheritance under KRS Chapter 391 with respect to that
child.

(2) The mother of the child may waive the protection afforded under subsection (1) of this section regarding visitation and request that the court grant reasonable visitation rights with the child if paternity has been acknowledged.

(3) Unless waived by the mother and, if applicable, the public agency substantially contributing to the support of the child, a court shall establish a child support obligation against the father of the child pursuant to KRS 403.211.
CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6552

63rd Legislature
2014 Regular Session

Passed by the Senate March 13, 2014
YEAS 45  NAYS 2

President of the Senate

Passed by the House March 12, 2014
YEAS 93  NAYS 5

Speaker of the House of Representatives

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is ENGROSSED SECOND SUBSTITUTE SENATE BILL 6552 as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

Approved

FILED

Secretary of State
State of Washington
AN ACT Relating to improving student success by modifying instructional hour and graduation requirements; amending RCW 28A.700.070, 28A.230.097, 28A.230.010, 28A.150.220, 28A.230.090, 28A.230.097, 28A.320.240, and 28A.150.260; adding a new section to chapter 28A.305 RCW; adding a new section to chapter 43.06B RCW; creating new sections; providing effective dates; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature recognizes that preparing students to be successful in postsecondary education, gainful employment, and citizenship requires increased rigor and achievement, including attaining a meaningful high school diploma with the opportunity to earn twenty-four credits. The legislature finds that an investment was made in the 2013-2015 omnibus appropriations act to implement an increase in instructional hours in the 2014-15 school year. School districts informed the legislature that the funding as provided in the 2013-2015 omnibus appropriations act would result in only a few minutes being added onto each class period and would not result in a meaningful increase in instruction that would have the
positive impact on student learning that the legislature expects. The school districts suggested that it would be a better educational policy to use the funds to implement the requirement of twenty-four credits for high school graduation, which will result in a meaningful increase of instructional hours. Based on input from school districts across the state, the legislature recognizes the need to provide flexibility for school districts to implement the increase in instructional hours while still moving towards an increase in the high school graduation requirements. Therefore, the legislature intends to shift the focus and intent of the investments from compliance with the minimum instructional hours offering to assisting school districts to provide an opportunity for students to earn twenty-four credits for high school graduation and obtain a meaningful diploma, beginning with the graduating class of 2019, with the opportunity for school districts to request a waiver for up to two years.

PART I
CAREER AND TECHNICAL EQUIVALENCIES

Sec. 101. RCW 28A.700.070 and 2008 c 170 s 201 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall support school district efforts under RCW 28A.230.097 to adopt course equivalencies for career and technical courses by:

   (a) Recommending career and technical curriculum suitable for course equivalencies;

   (b) Publicizing best practices for high schools and school districts in developing and adopting course equivalencies; and

   (c) In consultation with the Washington association for career and technical education, providing professional development, technical assistance, and guidance for school districts seeking to expand their lists of equivalent courses.

(2) The office of the superintendent of public instruction shall provide professional development, technical assistance, and guidance for school districts to develop career and technical course equivalencies that also qualify as advanced placement courses.

(3) The office of the superintendent of public instruction, in consultation with one or more technical working groups convened for
this purpose, shall develop curriculum frameworks for a selected list of career and technical courses that may be offered by high schools or skill centers whose content in science, technology, engineering, and mathematics is considered equivalent in full or in part to science or mathematics courses that meet high school graduation requirements. The content of the courses must be aligned with state essential academic learning requirements in mathematics as adopted by the superintendent of public instruction in July 2011 and the essential academic learning requirements in science as adopted in October 2013, and industry standards. The office shall submit the list of equivalent career and technical courses and their curriculum frameworks to the state board of education for review, an opportunity for public comment, and approval. The first list of courses under this subsection must be developed and approved before the 2015-16 school year. Thereafter, the office may periodically update or revise the list of courses using the process in this subsection.

(4) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall allocate grant funds to school districts to increase the integration and rigor of academic instruction in career and technical courses. Grant recipients are encouraged to use grant funds to support teams of academic and technical teachers using a research-based professional development model supported by the national research center for career and technical education. The office of the superintendent of public instruction may require that grant recipients provide matching resources using federal Carl Perkins funds or other fund sources.

Sec. 102. RCW 28A.230.097 and 2013 c 241 s 2 are each amended to read as follows:

(1) Each high school or school district board of directors shall adopt course equivalencies for career and technical high school courses offered to students in high schools and skill centers. A career and technical course equivalency may be for whole or partial credit. Each school district board of directors shall develop a course equivalency approval procedure. Boards of directors must approve AP computer science courses as equivalent to high school mathematics or science, and must denote on a student's transcript that AP computer science qualifies as a math-based quantitative course for students who take the
course in their senior year. In order for a board to approve AP
computer science as equivalent to high school mathematics, the student
must be concurrently enrolled in or have successfully completed algebra
II. Beginning no later than the 2015-16 school year, a school district
board of directors must, at a minimum, grant academic course
equivalency in mathematics or science for a high school career and
technical course from the list of courses approved by the state board
of education under RCW 28A.700.070, but is not limited to the courses
on the list. If the list of courses is revised after the 2015-16
school year, the school district board of directors must grant academic
course equivalency based on the revised list beginning with the school
year immediately following the revision.

(2) Career and technical courses determined to be equivalent to
academic core courses, in full or in part, by the high school or school
district shall be accepted as meeting core requirements, including
graduation requirements, if the courses are recorded on the student's
transcript using the equivalent academic high school department
designation and title. Full or partial credit shall be recorded as
appropriate. The high school or school district shall also issue and
keep record of course completion certificates that demonstrate that the
career and technical courses were successfully completed as needed for
industry certification, college credit, or preapprenticeship, as
applicable. The certificate shall be either part of the student's high
school and beyond plan or the student's culminating project, as
determined by the student. The office of the superintendent of public
instruction shall develop and make available electronic samples of
certificates of course completion.

Sec. 103. RCW 28A.230.010 and 2003 c 49 s 1 are each amended to
read as follows:

(1) School district boards of directors shall identify and offer
courses with content that meet or exceed: (((1))) (a) The basic
education skills identified in RCW 28A.150.210; (((2))) (b) the
graduation requirements under RCW 28A.230.090; (((3))) (c) the courses
required to meet the minimum college entrance requirements under RCW
28A.230.130; and (((4))) (d) the course options for career development
under RCW 28A.230.130. Such courses may be applied or theoretical,
academic, or vocational.
(2) School district boards of directors must provide high school students with the opportunity to access at least one career and technical education course that is considered equivalent to a mathematics course or at least one career and technical education course that is considered equivalent to a science course as determined by the office of the superintendent of public instruction and the state board of education in RCW 28A.700.070. Students may access such courses at high schools, interdistrict cooperatives, skill centers or branch or satellite skill centers, or through online learning or applicable running start vocational courses.

(3) School district boards of directors of school districts with fewer than two thousand students may apply to the state board of education for a waiver from the provisions of subsection (2) of this section.

NEW SECTION. Sec. 104. A new section is added to chapter 28A.305 RCW to read as follows:

The state board of education may grant a waiver from the provisions of RCW 28A.230.010(2) based on an application from a board of directors of a school district with fewer than two thousand students.

PART II
INSTRUCTIONAL HOURS AND HIGH SCHOOL GRADUATION CREDIT REQUIREMENTS

Sec. 201. RCW 28A.150.220 and 2013 2nd sp.s. c 9 s 2 are each amended to read as follows:

(1) In order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. The program established under this section shall be the minimum instructional program of basic education offered by school districts.

(2) Each school district shall make available to students the following minimum instructional offering each school year:

(a) For students enrolled in grades one through twelve, at least a district-wide annual average of one thousand hours, which shall be
increased beginning in the 2015-16 school year to at least one thousand eighty instructional hours for students enrolled in (each of) grades seven nine through twelve and at least one thousand instructional hours for students in (each of) grades one through six according to an implementation schedule adopted by the legislature, but not before the 2014-15 school year) eight, all of which may be calculated by a school district using a district-wide annual average of instructional hours over grades one through twelve; and

(b) For students enrolled in kindergarten, at least four hundred fifty instructional hours, which shall be increased to at least one thousand instructional hours according to the implementation schedule under RCW 28A.150.315.

(3) The instructional program of basic education provided by each school district shall include:

(a) Instruction in the essential academic learning requirements under RCW 28A.655.070;

(b) Instruction that provides students the opportunity to complete twenty-four credits for high school graduation, (subject to a phased-in implementation of the twenty-four credits as established by the legislature) beginning with the graduating class of 2019 or as otherwise provided in RCW 28A.230.090. Course distribution requirements may be established by the state board of education under RCW 28A.230.090;

(c) If the essential academic learning requirements include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

(d) Supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(e) Supplemental instruction and services for eligible and enrolled students and exited students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(f) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020; and
(g) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030.

(4) Nothing contained in this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5)(a) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten, to be increased to a minimum of one hundred eighty school days per school year according to the implementation schedule under RCW 28A.150.315. (However)

(b) Schools administering the Washington kindergarten inventory of developing skills may use up to three school days at the beginning of the school year to meet with parents and families as required in the parent involvement component of the inventory. (In addition, effective May 1, 1979)

(c) In the case of students who are graduating from high school, a school district may schedule the last five school days of the one hundred (and) eighty day school year for noninstructional purposes (in the case of students who are graduating from high school) including, but not limited to, the observance of graduation and early release from school upon the request of a student (and). All such students may be claimed as a full-time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260. Any hours scheduled by a school district for noninstructional purposes during the last five school days for such students shall count toward the instructional hours requirement in subsection (2)(a) of this section.

(6) Nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.

(7) The state board of education shall adopt rules to implement and
ensure compliance with the program requirements imposed by this
section, RCW 28A.150.250 and 28A.150.260, and such related supplemental
program approval requirements as the state board may establish.

Sec. 202.  RCW 28A.230.090 and 2011 c 203 s 2 are each amended to
read as follows:

(1) The state board of education shall establish high school
graduation requirements or equivalencies for students, except as
provided in RCW 28A.230.122 and except those equivalencies established
by local high schools or school districts under RCW 28A.230.097. The
purpose of a high school diploma is to declare that a student is ready
for success in postsecondary education, gainful employment, and
citizenship, and is equipped with the skills to be a lifelong learner.

(a) Any course in Washington state history and government used to
fulfill high school graduation requirements shall consider including
information on the culture, history, and government of the American
Indian peoples who were the first inhabitants of the state.

(b) The certificate of academic achievement requirements under RCW
28A.655.061 or the certificate of individual achievement requirements
under RCW 28A.155.045 are required for graduation from a public high
school but are not the only requirements for graduation.

(c) Any decision on whether a student has met the state board's
high school graduation requirements for a high school and beyond plan
shall remain at the local level. Effective with the graduating class
of 2015, the state board of education may not establish a requirement
for students to complete a culminating project for graduation.

(d)(i) The state board of education shall adopt rules to implement
the career and college ready graduation requirement proposal adopted
under board resolution on November 10, 2010, and revised on January 9,
2014, to take effect beginning with the graduating class of 2019 or as
otherwise provided in this subsection (1)(d). The rules must include
authorization for a school district to waive up to two credits for
individual students based on unusual circumstances and in accordance
with written policies that must be adopted by each board of directors
of a school district that grants diplomas. The rules must also provide
that the content of the third credit of mathematics and the content of
the third credit of science may be chosen by the student based on the
student's interests and high school and beyond plan with agreement of
the student's parent or guardian or agreement of the school counselor
or principal.

(ii) School districts may apply to the state board of education for
a waiver to implement the career and college ready graduation
requirement proposal beginning with the graduating class of 2020 or
2021 instead of the graduating class of 2019. In the application, a
school district must describe why the waiver is being requested, the
specific impediments preventing timely implementation, and efforts that
will be taken to achieve implementation with the graduating class
proposed under the waiver. The state board of education shall grant a
waiver under this subsection (1)(d) to an applying school district at
the next subsequent meeting of the board after receiving an
application.

(2)(a) In recognition of the statutory authority of the state board
of education to establish and enforce minimum high school graduation
requirements, the state board shall periodically reevaluate the
graduation requirements and shall report such findings to the
legislature in a timely manner as determined by the state board.

(b) The state board shall reevaluate the graduation requirements
for students enrolled in vocationally intensive and rigorous career and
technical education programs, particularly those programs that lead to
a certificate or credential that is state or nationally recognized.
The purpose of the evaluation is to ensure that students enrolled in
these programs have sufficient opportunity to earn a certificate of
academic achievement, complete the program and earn the program's
certificate or credential, and complete other state and local
graduation requirements.

(c) The state board shall forward any proposed changes to the high
school graduation requirements to the education committees of the
legislature for review and to the quality education council established
under RCW 28A.290.010. The legislature shall have the opportunity to
act during a regular legislative session before the changes are adopted
through administrative rule by the state board. Changes that have a
fiscal impact on school districts, as identified by a fiscal analysis
prepared by the office of the superintendent of public instruction,
shall take effect only if formally authorized and funded by the
legislature through the omnibus appropriations act or other enacted
legislation.

(3) Pursuant to any requirement for instruction in languages other
than English established by the state board of education or a local
school district, or both, for purposes of high school graduation,
students who receive instruction in American sign language or one or
more American Indian languages shall be considered to have satisfied
the state or local school district graduation requirement for
instruction in one or more languages other than English.

(4) If requested by the student and his or her family, a student
who has completed high school courses before attending high school
shall be given high school credit which shall be applied to fulfilling
high school graduation requirements if:

(a) The course was taken with high school students, if the academic
level of the course exceeds the requirements for seventh and eighth
grade classes, and the student has successfully passed by completing
the same course requirements and examinations as the high school
students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for
seventh and eighth grade classes and the course would qualify for high
school credit, because the course is similar or equivalent to a course
offered at a high school in the district as determined by the school
district board of directors.

(5) Students who have taken and successfully completed high school
courses under the circumstances in subsection (4) of this section shall
not be required to take an additional competency examination or perform
any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three
semester hours equals one high school credit.

NEW SECTION. Sec. 203. The Washington state school directors'
association shall adopt a model policy and procedure that school
districts may use for granting waivers to individual students of up to
two credits required for high school graduation based on unusual
circumstances. The purpose of the model policy and procedure is to
assist school districts in providing all students the opportunity to
complete graduation requirements without discrimination and without
disparate impact on groups of students. The model policy must take
into consideration the unique limitations of a student that may be associated with such circumstances as homelessness, limited English proficiency, medical conditions that impair a student's opportunity to learn, or disabilities, regardless of whether the student has an individualized education program or a plan under section 504 of the federal rehabilitation act of 1973. The model policy must also address waivers if the student has not been provided with an opportunity to retake classes or enroll in remedial classes free of charge during the first four years of high school. The Washington state school directors' association must distribute the model policy and procedure to all school districts in the state that grant high school diplomas by June 30, 2015.

Sec. 204. RCW 28A.230.097 and 2013 c 241 s 2 are each amended to read as follows:

(1) Each high school or school district board of directors shall adopt course equivalencies for career and technical high school courses offered to students in high schools and skill centers. A career and technical course equivalency may be for whole or partial credit. Each school district board of directors shall develop a course equivalency approval procedure. Boards of directors must approve AP computer science courses as equivalent to high school mathematics or science, and must denote on a student's transcript that AP computer science qualifies as a math-based quantitative course for students who take the course in their senior year. In order for a board to approve AP computer science as equivalent to high school mathematics, the student must be concurrently enrolled in or have successfully completed algebra II.

(2) Career and technical courses determined to be equivalent to academic core courses, in full or in part, by the high school or school district shall be accepted as meeting core requirements, including graduation requirements, if the courses are recorded on the student's transcript using the equivalent academic high school department designation and title. Full or partial credit shall be recorded as appropriate. The high school or school district shall also issue and keep record of course completion certificates that demonstrate that the career and technical courses were successfully completed as needed for industry certification, college credit, or preapprenticeship, as
applicable. The certificate shall be ((either)) part of the student's high school and beyond plan ((or the student's culminating project, as determined by the student)). The office of the superintendent of public instruction shall develop and make available electronic samples of certificates of course completion.

Sec. 205. RCW 28A.320.240 and 2006 c 263 s 914 are each amended to read as follows:

1. The purpose of this section is to identify quality criteria for school library media programs that support the student learning goals under RCW 28A.150.210, the essential academic learning requirements under RCW 28A.655.070, and high school graduation requirements adopted under RCW 28A.230.090.

2. Every board of directors shall provide for the operation and stocking of such libraries as the board deems necessary for the proper education of the district's students or as otherwise required by law or rule of the superintendent of public instruction.

3. "Teacher-librarian" means a certified teacher with a library media endorsement under rules adopted by the professional educator standards board.

4. "School-library media program" means a school-based program that is staffed by a certificated teacher-librarian and provides a variety of resources that support student mastery of the essential academic learning requirements in all subject areas and the implementation of the district's school improvement plan.

5. The teacher-librarian, through the school-library media program, shall collaborate as an instructional partner to help all students meet the content goals in all subject areas, and assist high school students completing ((the culminating project and)) high school and beyond plans required for graduation.

Sec. 206. RCW 28A.150.260 and 2011 1st sp.s. c 27 s 2 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:
(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.
(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(4)(a)(i) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

<table>
<thead>
<tr>
<th>Grades</th>
<th>Average Class Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>K-3</td>
<td>25.23</td>
</tr>
<tr>
<td>Grade 4</td>
<td>27.00</td>
</tr>
<tr>
<td>Grades 5-6</td>
<td>27.00</td>
</tr>
<tr>
<td>Grades 7-8</td>
<td>28.53</td>
</tr>
<tr>
<td>Grades 9-12</td>
<td>28.74</td>
</tr>
</tbody>
</table>

(ii) The minimum class size allocation for each prototypical high school shall also provide for enhanced funding for class size reduction for two laboratory science classes within grades nine through twelve per full-time equivalent high school student multiplied by a laboratory science course factor of 0.0833, based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours in RCW 28A.150.220, and providing at least one teacher planning period per school day:

<table>
<thead>
<tr>
<th>Grades</th>
<th>Average Class Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grades 9-12</td>
<td>19.98</td>
</tr>
</tbody>
</table>

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price
meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

<table>
<thead>
<tr>
<th>Career and technical education average class size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approved career and technical education offered at the middle school and high school level</td>
</tr>
<tr>
<td>Skill center programs meeting the standards established by the office of the superintendent of public instruction</td>
</tr>
</tbody>
</table>

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for laboratory science, advanced placement, and international baccalaureate courses.

(5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

<table>
<thead>
<tr>
<th>Principals, assistant principals, and other certificated building-level administrators</th>
<th>Elementary School</th>
<th>Middle School</th>
<th>High School</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1.253</td>
<td>1.353</td>
<td>1.880</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs</th>
<th>Elementary School</th>
<th>Middle School</th>
<th>High School</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.663</td>
<td>0.519</td>
<td>0.523</td>
</tr>
</tbody>
</table>
Health and social services:

School nurses ................................................. 0.076 0.060 0.096
Social workers .................................................. 0.042 0.006 0.015
Psychologists ................................................... 0.017 0.002 0.007
Guidance counselors, a function that includes parent outreach and graduation advising ................................................... 0.493 1.116 ((1.000))

Teaching assistance, including any aspect of educational instructional services provided by classified employees ................................................. 0.936 0.700 0.652
Office support and other noninstructional aides ......................................... 2.012 2.325 3.269
Custodians ........................................................... 1.657 1.942 2.965
Classified staff providing student and staff safety ......................................... 0.079 0.092 0.141
Parent involvement coordinators ....................................................... 0.00 0.00 0.00

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

Staff per 1,000 K-12 students

Technology .......................................................... 0.628
Facilities, maintenance, and grounds ..................................................... 1.813
Warehouse, laborers, and mechanics ................................................... 0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) and (c) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year:
13 maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technology</td>
<td>$54.43</td>
</tr>
<tr>
<td>Utilities and insurance</td>
<td>$147.90</td>
</tr>
<tr>
<td>Curriculum and textbooks</td>
<td>$58.44</td>
</tr>
<tr>
<td>Other supplies and library materials</td>
<td>$124.07</td>
</tr>
<tr>
<td>Instructional professional development for certificated and classified staff</td>
<td>$9.04</td>
</tr>
<tr>
<td>Facilities maintenance</td>
<td>$73.27</td>
</tr>
<tr>
<td>Security and central office administration</td>
<td>$50.76</td>
</tr>
</tbody>
</table>

(b) During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technology</td>
<td>$113.80</td>
</tr>
<tr>
<td>Utilities and insurance</td>
<td>$309.21</td>
</tr>
<tr>
<td>Curriculum and textbooks</td>
<td>$122.17</td>
</tr>
<tr>
<td>Other supplies and library materials</td>
<td>$259.39</td>
</tr>
<tr>
<td>Instructional professional development for certificated and classified staff</td>
<td>$18.89</td>
</tr>
<tr>
<td>Facilities maintenance</td>
<td>$153.18</td>
</tr>
<tr>
<td>Security and central office administration</td>
<td>$106.12</td>
</tr>
</tbody>
</table>

(c) In addition to the amounts provided in (a) and (b) of this subsection, beginning in the 2014-15 school year, the omnibus appropriations act shall provide the following minimum allocation for each annual average full-time equivalent student in grades nine through twelve for the following materials, supplies, and operating costs, to be adjusted annually for inflation:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technology</td>
<td>$58.44</td>
</tr>
<tr>
<td>Utilities and insurance</td>
<td>$73.27</td>
</tr>
<tr>
<td>Curriculum and textbooks</td>
<td>$18.89</td>
</tr>
<tr>
<td>Other supplies and library materials</td>
<td>$153.18</td>
</tr>
<tr>
<td>Instructional professional development for certificated and classified staff</td>
<td>$106.12</td>
</tr>
</tbody>
</table>

Per annual average full-time equivalent student in grades K-12

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technology</td>
<td>$54.43</td>
</tr>
<tr>
<td>Utilities and insurance</td>
<td>$147.90</td>
</tr>
<tr>
<td>Curriculum and textbooks</td>
<td>$58.44</td>
</tr>
<tr>
<td>Other supplies and library materials</td>
<td>$124.07</td>
</tr>
<tr>
<td>Instructional professional development for certificated and classified staff</td>
<td>$9.04</td>
</tr>
<tr>
<td>Facilities maintenance</td>
<td>$73.27</td>
</tr>
<tr>
<td>Security and central office administration</td>
<td>$50.76</td>
</tr>
</tbody>
</table>
Technology .................................................. $36.35
Curriculum and textbooks .......................... $39.02
Other supplies and library materials ......... $82.84
Instructional professional development for certificated and
classified staff ................................. $6.04

(9) In addition to the amounts provided in subsection (8) of this
section, the omnibus appropriations act shall provide an amount based
on full-time equivalent student enrollment in each of the following:
(a) Exploratory career and technical education courses for students
in grades seven through twelve;
(b) Laboratory science courses for students in grades nine
through twelve;
(c) Preparatory career and technical education courses for
students in grades nine through twelve offered in a high school; and
(d) Preparatory career and technical education courses for
students in grades eleven and twelve offered through a skill center.
(10) In addition to the allocations otherwise provided under this
section, amounts shall be provided to support the following programs
and services:
(a) To provide supplemental instruction and services for
underachieving students through the learning assistance program under
RCW 28A.165.005 through 28A.165.065, allocations shall be based on the
district percentage of students in grades K-12 who were eligible for
free or reduced-price meals in the prior school year. The minimum
allocation for the program shall provide for each level of prototypical
school resources to provide, on a statewide average, 1.5156 hours per
week in extra instruction with a class size of fifteen learning
assistance program students per teacher.
(b) To provide supplemental instruction and services for students
whose primary language is other than English, allocations shall be
based on the head count number of students in each school who are
eligible for and enrolled in the transitional bilingual instruction
program under RCW 28A.180.010 through 28A.180.080. The minimum
allocation for each level of prototypical school shall provide
resources to provide, on a statewide average, 4.7780 hours per week in
extra instruction with fifteen transitional bilingual instruction
program students per teacher. Notwithstanding other provisions of this
subsection (10), the actual per-student allocation may be scaled to provide a larger allocation for students needing more intensive intervention and a commensurate reduced allocation for students needing less intensive intervention, as detailed in the omnibus appropriations act.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a) and (b), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.
(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

NEW SECTION. Sec. 207. A new section is added to chapter 43.06B RCW to read as follows:

(1) The office of the education ombuds shall convene a task force on success for students with special needs to:

(a) Define and assess barriers that students with special needs face in earning a high school diploma and fully accessing the educational program provided by the public schools, including but not limited to students with disabilities, dyslexia, and other physical or emotional conditions for which students do not have an individualized education program or section 504 plan but that create limitations to their ability to succeed in school;

(b) Outline recommendations for systemic changes to address barriers identified and successful models for the delivery of education and supportive services for students with special needs;

(c) Recommend steps for coordination of delivery of early learning through postsecondary education and career preparation for students with special needs through ongoing efforts of various state and local education and workforce agencies, including strategies for earlier assessment and identification of disabilities or barriers to learning in early learning programs and in kindergarten through third grade; and

(d) Identify options for state assistance to help school districts
1 develop course equivalencies for competency-based education or similar
2 systems of personalized learning where students master specific
3 knowledge and skills at their own pace.
4
5 (2) The task force shall be composed of at least the following members:
6
7 (a) One representative each from the office of the superintendent
8 of public instruction, the workforce training and education
9 coordinating board, the Washington state school directors' association,
10 a statewide organization representing teachers and other certificated
11 instructional staff, the student achievement council, the state board
12 of education, the department of early learning, the educational
13 opportunity gap oversight and accountability committee, a nonprofit
14 organization providing professional development and resources for
15 educators and parents regarding dyslexia, a nonprofit organization of
16 special education parents and teachers, and the Washington association
17 for career and technical education, each to be selected by the
18 appropriate agency or organization; and
19
20 (b) At least one faculty member from a public institution of higher
21 education, at least one special education teacher, at least one general
22 education teacher, and at least three parent representatives from
23 special needs families, each to be appointed by the education ombuds.
24
25 (3) The office of the education ombuds shall submit an initial
26 report to the superintendent of public instruction, the governor, and
27 the legislature by December 15, 2014, and December 15th of each year
28 thereafter until 2016 detailing its recommendations, including
29 recommendations for specific strategies, programs, and potential
30 changes to funding or accountability systems that are designed to close
31 the opportunity gap, increase high school graduation rates, and assure
32 students with special needs are fully accessing the educational program
33 provided by the public schools.
34
35 (4) This section expires June 30, 2017.
36
37 NEW SECTION. Sec. 208. Sections 103 and 104 of this act take
38 effect September 1, 2015.
39
40 NEW SECTION. Sec. 209. Section 206 of this act takes effect
41
September 1, 2014.

--- END ---
Sec. 4. Minnesota Statutes 2012, section 120B.023, is amended to read:

120B.023 BENCHMARKS.

Subdivision 1. **Benchmarks implement, supplement statewide academic standards.** (a) The commissioner must supplement required state academic standards with grade-level benchmarks. High school career and college ready benchmarks may cover more than one grade. The benchmarks must implement statewide academic standards by specifying the academic knowledge and skills that students must offer and students must achieve all benchmarks for an academic standard to satisfactorily complete that state standard. The commissioner must publish benchmarks to inform and guide parents, teachers, school districts, and other interested persons and to use in developing tests consistent with the benchmarks.

(b) The commissioner shall publish benchmarks in the State Register and transmit the benchmarks in any other manner that informs and guides parents, teachers, school districts, and other interested persons and makes them accessible to the general public. The commissioner must use benchmarks in developing career and college readiness assessments under section 120B.30. The commissioner may charge a reasonable fee for publications.

(c) Once established, the commissioner may change the benchmarks only with specific legislative authorization and after completing a review under subdivision 2.

(d) The commissioner must develop and implement a system for reviewing each of the required academic standards and related benchmarks and elective standards on a periodic cycle, consistent with subdivision 2.

(e) The benchmarks are not subject to chapter 14 and section 14.386 does not apply.

Subd. 2. **Revisions and reviews required.** (a) The commissioner of education must revise and appropriately embed technology and information literacy standards consistent with recommendations from school media specialists into the state's academic standards and graduation requirements and implement a review ten-year cycle for to review and revise state academic standards and related benchmarks, consistent with this subdivision. During each ten-year review and revision cycle, the commissioner also must examine the alignment of each required academic standard and related benchmark with the knowledge and skills students need for career and college readiness and advanced work in the particular subject area. The commissioner must include the contributions of Minnesota American Indian tribes and communities as related to the academic standards during the review and revision of the required academic standards.

(b) The commissioner in the 2006-2007 school year must revise and align the state's academic standards and high school graduation requirements in mathematics to require that students satisfactorily complete the revised mathematics standards, beginning in the 2010-2011 school year. Under the revised standards:

(1) students must satisfactorily complete an algebra I credit by the end of eighth grade; and
(2) students scheduled to graduate in the 2014-2015 school year or later must satisfactorily complete an algebra II credit or its equivalent.

(b) The commissioner also must ensure that the statewide mathematics assessments administered to students in grades 3 through 8 and 11 are aligned with the state academic standards in mathematics, consistent with section 120B.30, subdivision 1, paragraph (b). The commissioner must implement a review of the academic standards and related benchmarks in mathematics beginning in the 2015-2016 school year.

(c) The commissioner in the 2007-2008 school year must revise and align the state's academic standards and high school graduation requirements in the arts to require that students satisfactorily complete the revised arts standards beginning in the 2010-2011 school year. The commissioner must implement a review of the academic standards and related benchmarks in arts beginning in the 2016-2017 school year.
(d) The commissioner in the 2008-2009 school year must revise and align the state's academic standards and high school graduation requirements in science to require that students satisfactorily complete the revised science standards, beginning in the 2011-2012 school year. Under the revised standards, students scheduled to graduate in the 2014-2015 school year or later must satisfactorily complete a chemistry or physics credit or a career and technical education credit that meets standards underlying the chemistry, physics, or biology credit or a combination of those standards approved by the district. The commissioner must implement a review of the academic standards and related benchmarks in science beginning in the 2017-2018 school year.

(e) The commissioner in the 2009-2010 school year must revise and align the state's academic standards and high school graduation requirements in language arts to require that students satisfactorily complete the revised language arts standards beginning in the 2012-2013 school year. The commissioner must implement a review of the academic standards and related benchmarks in language arts beginning in the 2018-2019 school year.

(f) The commissioner in the 2010-2011 school year must revise and align the state's academic standards and high school graduation requirements in social studies to require that students satisfactorily complete the revised social studies standards beginning in the 2013-2014 school year. The commissioner must implement a review of the academic standards and related benchmarks in social studies beginning in the 2019-2020 school year.

(g) School districts and charter schools must revise and align local academic standards and high school graduation requirements in health, world languages, and career and technical education to require students to complete the revised standards beginning in a school year determined by the school district or charter school. School districts and charter schools must formally establish a periodic review cycle for the academic standards and related benchmarks in health, world languages, and career and technical education.

Sec. 5. Minnesota Statutes 2012, section 120B.024, is amended to read:

120B.024 GRADUATION REQUIREMENTS; COURSE CREDITS.

Subdivision 1. Graduation requirements. (a) Students beginning 9th grade in the 2011-2012 school year and later must successfully complete the following high school level course credits for graduation:

(1) four credits of language arts sufficient to satisfy all of the academic standards in English language arts;

(2) three credits of mathematics, encompassing at least algebra, geometry, statistics, and probability including an algebra II credit or its equivalent, sufficient to satisfy all of the academic standards in mathematics;

(3) an algebra I credit by the end of 8th grade sufficient to satisfy all of the 8th grade standards in mathematics;

(3) (4) three credits of science, including at least: (i) one credit in biology; and (ii) one chemistry or physics credit or a career and technical education credit that meets standards underlying the chemistry, physics, or biology credit or a combination of those standards approved by the district, but meeting biology standards under this item does not meet the biology requirement under item (i), one credit of chemistry or physics, and one elective credit of science. The combination of credits under this clause must be sufficient to satisfy (i) all of the academic standards in either chemistry or physics and (ii) all other academic standards in science;

(4) (5) three and one-half credits of social studies, encompassing at least United States history, geography, government and citizenship, world history, and economics or three credits of social studies encompassing at least United States history, geography, government and citizenship, and world history.
and one-half credit of economics taught in a school's social studies, agriculture education, or business
department sufficient to satisfy all of the academic standards in social studies;

(5) (6) one credit in of the arts sufficient to satisfy all of the state or local academic standards in the
arts; and

(6) (7) a minimum of seven elective course credits.

A course credit is equivalent to a student successfully completing an academic year of study or a
student mastering the applicable subject matter, as determined by the local school district.

Subd. 2. Credit equivalencies. (a) A one-half credit of economics taught in a school's agriculture
education or business department may fulfill a one-half credit in social studies under subdivision 1, clause
(5), if the credit is sufficient to satisfy all of the academic standards in economics.

(b) An agriculture science course or career and technical education credit may fulfill the elective
science credit requirement other than the specified science credit in biology under paragraph (a), clause (3),
subdivision 1, clause (4), if the course meets academic standards in science as approved by the district. An
agriculture science or career and technical education credit may fulfill the credit in chemistry or physics
or the elective science credit required under subdivision 1, clause (4), if (1) the credit meets the chemistry,
physics, or biology academic standards or a combination of these academic standards as approved by
the district and (2) the student satisfies either all of the chemistry academic standards, all of the physics academic
standards, or all of the applicable elective science standards prior to graduation. An agriculture science or
career and technical education credit may not fulfill the required biology credit under subdivision 1, clause
(4).

(c) A career and technical education course credit may fulfill a mathematics or arts credit requirement
or a science credit requirement other than the specified science credit in biology under paragraph (a)
subdivision 1, clause (2)-(3), or (5) (6).

(d) An agriculture education teacher is not required to meet the requirements of Minnesota Rules,
part 3505.1150, subpart 1, item B, to meet the credit equivalency requirements of paragraph (b) above.

EFFECTIVE DATE. This section is effective August 1, 2013, and applies to students entering 9th
grade in the 2013-2014 school year and later.

Sec. 6. Minnesota Statutes 2012, section 120B.11, is amended to read:

120B.11 SCHOOL DISTRICT PROCESS FOR REVIEWING CURRICULUM,
INSTRUCTION, AND STUDENT ACHIEVEMENT; STRIVING FOR THE WORLD'S BEST
WORKFORCE.

Subdivision 1. Definitions. For the purposes of this section and section 120B.10, the following terms
have the meanings given them.

(a) "Instruction" means methods of providing learning experiences that enable a student to meet state
and district academic standards and graduation requirements.

(b) "Curriculum" means district or school adopted programs and written plans for providing students
with learning experiences that lead to expected knowledge and skills and career and college readiness.

(c) "World's best workforce" means striving to: meet school readiness goals; have all third grade
students achieve grade-level literacy; close the academic achievement gap among all racial and ethnic groups
of students and between students living in poverty and students not living in poverty; have all students attain
career and college readiness before graduating from high school; and have all students graduate from high
school.
AN ACT to amend 118.33 (1) (a) 1. of the statutes; relating to: the number of mathematics and science credits required for a high school diploma.

Analysis by the Legislative Reference Bureau
This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE. This bill was prepared for the Joint Legislative Council’s Special Committee on Improving Educational Opportunities in High School.

Under current law, a school board may not grant a high school diploma to any student unless the student has earned all of the following minimum credits in the high school grades: 4 credits of English; 3 credits of social studies; 2 credits of mathematics; 2 credits of science; and one and one-half credits of physical education. Current law also requires the completion of one-half credit of health education in grades 7 to 12 to earn a high school diploma.

This bill increases the required credits in mathematics and science to 3.

SECTION 1. 118.33 (1) (a) 1. of the statutes is amended to read:

118.33 (1) (a) 1. In the high school grades, at least 4 credits of English including writing composition, 3 credits of social studies including state and local government,
credits of mathematics, 2/3 credits of science and 1.5 credits of physical education. The school board shall award a pupil a science credit for successfully completing in the high school grades each course in agriculture that the department has determined qualifies as science according to criteria established by the department.
To amend chapter 178, RSMo, by adding thereto one new section relating to the
innovation education campus fund.

Section A. Chapter 178, RSMo, is amended by adding thereto one new
section, to be known as section 178.1100, to read as follows:

178.1100. 1. As used in this section, except in those instances
where the context states otherwise, the following words and phrases
shall mean:

(1) "Innovation education campus" or "innovation campus", an
educational partnership consisting of at least one of each of the
following entities:
(a) A local Missouri high school or K-12 school district;
(b) A Missouri four-year public or private higher education
institution;
(c) A Missouri-based business or businesses; and
(d) A Missouri two-year public higher education institution or
Linn State Technical College;
(2) "Innovation education campus fund" or "fund", the fund to be
administered by the commissioner of higher education and in the
custody of the state treasurer created under this section to fund the
instruction of an innovation campus.

2. There is hereby created in the state treasury the "Innovation
Education Campus Fund". The commissioner of higher education shall
administer the fund. The state treasurer shall be custodian of the fund
and may approve disbursements from the fund in accordance with
sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

3. The general assembly may appropriate moneys to the fund that shall be used to fund the program of instruction at any innovation education campus.

4. Participating institutions, as provided in this section, may receive moneys from the fund when the following criteria are satisfied:
   (1) The innovation education campus demonstrates it is actively working to lower the cost for students to complete a college degree;
   (2) The program at the innovation education campus decreases the general amount of time required for a student to earn a college degree;
   (3) The innovation education campus provides applied and project-based learning experiences for students and leverages curriculum developed in consultation with partner Missouri business and industry representatives;
   (4) Students graduate from the innovation education campus with direct access to internship, apprentice, part-time or full-time career opportunities with Missouri-based businesses that are in partnership with the innovation education campus; and
   (5) The innovation education campus engages and partners with industry stakeholders in ongoing program development and program outcomes review.

5. The existing Missouri innovation campus, consisting of the University of Central Missouri, a school district with a student enrollment between seventeen thousand and nineteen thousand students that is located in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, a community college located in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants,
and private enterprises, has satisfied these criteria and is eligible for
funding under this section.

6. The coordinating board for higher education shall conduct a
review every five years of any innovation education campus to verify
ongoing compliance with the requirements of subsection 4 of this
section, including the Missouri innovation campus identified in
subsection 5 of this section. As part of its review, the coordinating
board shall consult with and take input from each entity that is a
partner to an innovation education campus. Business and industry
involved in an innovation education campus, either financially or
through in-kind support, may provide feedback regarding the
curriculum, courses, and investment quality of the innovation
education campus to the coordinating board.

7. Any innovation education campus shall annually verify to the
coordinating board for higher education that it has satisfied the
criteria established in subsection 4 of this section. Upon verification
that the criteria are satisfied, moneys from the fund shall be disbursed.

8. If the general assembly appropriates moneys to the fund, the
allocation of moneys between entities partnered in an innovation
education campus for purposes of operating the innovation education
campus shall be determined through the appropriations
process. Moneys appropriated to the fund shall not be considered part
of the annual appropriation to any institution of higher education or
any school district. If an innovation education campus, or any entity
that has partnered to create and operate an innovation education
campus, receives private funds, such private funds shall not be placed
in the fund created in this section.

9. The coordinating board for higher education shall promulgate
rules and regulations to implement the provisions of this
section. Nothing in this section is intended to conflict with or
supercede rules or regulations promulgated by the coordinating board
for higher education. Any rule or portion of a rule, as that term is
defined in section 536.010 that is created under the authority delegated
in this section shall become effective only if it complies with and is
subject to all of the provisions of chapter 536, and, if applicable, section
536.028. This section and chapter 536 are nonseverable and if any of
the powers vested with the general assembly pursuant to chapter 536,
to review, to delay the effective date, or to disapprove and annul a rule
are subsequently held unconstitutional, then the grant of rulemaking
authority and any rule proposed or adopted after August 28, 2013, shall
be invalid and void.
HOUSE ENROLLED ACT No. 1003

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-28-7-1, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. As used in The following definitions apply throughout this chapter:

(1) "Business" includes an entity that has the objective of supplying a service or an article of trade or commerce.

(2) "School corporation" has the meaning set forth in IC 20-18-2-16(a).

(3) "Charter school" has the meaning set forth in IC 20-18-2-2.5.

SECTION 2. IC 5-28-7-2, AS AMENDED BY P.L.67-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. The corporation shall do the following:

(1) Establish policies to carry out a training assistance program, the purpose of which is to provide assistance to the following:

(A) New or expanding businesses, for the training or retraining of potential or incumbent employees and the retraining and upgrading of the skills of potential or incumbent employees.

(B) Businesses in Indiana, for the retraining and upgrading of employees' skills required to support new or existing capital investment.

(C) Businesses in Indiana, for the development of basic workforce skills of employees, including the following:

HEA 1003 — CC 1
(i) Literacy.
(ii) Communication skills.
(iii) Computational skills.
(iv) Other transferable workforce skills approved by the corporation.

(D) School corporations and charter schools, to support career pathways for students through cooperative arrangements with businesses for the education and training of students in high wage, high demand jobs that require industry certifications.

(2) Provide promotional materials regarding the training program.
(3) Determine the eligibility of an industry for the training program.
(4) Require a commitment by a business receiving training assistance under this chapter to continue operations at a site on which the training assistance is used for at least five (5) years after the date the training assistance expires. If a business fails to comply with this commitment, the corporation shall require the business to repay the training assistance provided to the business under this chapter.

SECTION 3. IC 5-28-7-4, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FollowS [EFFECTIVE JULY 1, 2014]: Sec. 4. Participation in the training program is limited to businesses entities that:

(1) meet the eligibility requirements of the corporation; and
(2) comply with this chapter.

SECTION 4. IC 5-28-7-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FollowS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) The corporation may award grants from the training 2000 fund to school corporations and charter schools to support cooperative arrangements with businesses for training students.

(b) A school corporation or a charter school must apply to the corporation for a grant under this section in the manner prescribed by the corporation.

(c) The corporation may consult with Indiana works councils to develop the application and eligibility requirements for grants awarded under this section.

SECTION 5. IC 6-3.1-13-13, AS AMENDED BY P.L.4-2005, SECTION 69, IS AMENDED TO READ AS FollowS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) The corporation may make credit awards under this chapter for any of the following:
(1) To foster job creation in Indiana.

(2) or, as provided in section 15.5 of this chapter, To foster job retention in Indiana.

(3) For taxable years beginning after December 31, 2014, and before January 1, 2019, to foster employment in Indiana of students who participate in a course of study that includes a cooperative arrangement between an educational institution and an employer for the training of students in high wage, high demand jobs that require an industry certification.

(b) The credit shall be claimed for the taxable years specified in the taxpayer's tax credit agreement.

SECTION 6. IC 6-3.1-13-14, AS AMENDED BY P.L.4-2005, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14. (a) A person that proposes a project to create new jobs in Indiana may apply, as provided in section 15 of this chapter, to the corporation to enter into an agreement for a tax credit under this chapter.

(b) A person that proposes to retain existing jobs in Indiana may apply, as provided in section 15.5 of this chapter, to the corporation to enter into an agreement for a tax credit under this chapter.

(c) This subsection applies to taxable years beginning after December 31, 2014, and before January 1, 2019. A person that proposes to employ in Indiana students who have participated in a course of study that includes a cooperative arrangement between an educational institution and an employer for the training of students in high wage, high demand jobs that require an industry certification may apply, as provided in section 15.7 of this chapter, to the corporation to enter into an agreement for a tax credit under this chapter.

(d) The director shall prescribe the form of the application.

SECTION 7. IC 6-3.1-13-15.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15.7. (a) This section applies to an application proposing to employ students who have participated in a course of study that includes a cooperative arrangement between an educational institution and an employer for the training of students in high wage, high demand jobs that require an industry certification.

(b) A taxpayer who wishes to claim the credit provided by this chapter for employment of candidates to which this section applies may submit an application to the corporation after June 30, 2014, for a taxable year beginning after December 31, 2014, and before
January 1, 2019, in the manner prescribed by the corporation.

(c) After receipt of an application, the corporation may enter into an agreement with the applicant for a tax credit under this chapter if the corporation determines that the applicant:

(1) participates in at least one (1) cooperative arrangement with an educational institution for the training of students in high wage, high demand jobs that require an industry certification; and

(2) meets any additional eligibility conditions established by the corporation.

(d) The corporation may consult with the Indiana career council to develop eligibility and performance conditions that an applicant must meet to qualify for a credit award to which this section applies.

(e) The aggregate amount of tax credits awarded under this section for a state fiscal year may not exceed two million five hundred thousand dollars ($2,500,000).

SECTION 8. IC 6-3.1-13-19.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 19.7. (a) In the case of a credit awarded for employment in Indiana of students who have participated in a course of study that includes a cooperative arrangement between an educational institution and an employer for the training of students in high wage, high demand jobs that require an industry certification, the corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the applicant's own cooperative arrangements between the applicant and educational institutions for the training of students in high wage, high demand jobs that require an industry certification.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain the applicant's cooperative arrangements between the applicant and educational institutions for the training of students in high wage, high demand jobs that require an industry certification for at least two (2) years following the last taxable year in which the applicant claims the tax credit or carries over an unused part of the tax credit under section 18
of this chapter. A taxpayer is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.

(5) A specific method for determining the number of employees who:
   (A) were students who participated in a course of study that included a cooperative arrangement between an employer and an educational institution for the training of students in high wage, high demand jobs that require an industry certification; and
   (B) are employed during a taxable year.

(6) A requirement that the taxpayer annually shall report to the corporation:
   (A) the number of employees who participated in a course of study that includes a cooperative arrangement between an employer and an educational institution for the training of students in high wage, high demand jobs that require an industry certification;
   (B) the income tax revenue withheld in connection with the employees described in clause (A); and
   (C) any other information the director needs to perform the director's duties under this chapter.

(7) A requirement that the director is authorized to verify with the appropriate state agencies the information reported under subdivision (6), and after doing so shall issue a certificate to the taxpayer stating that the information has been verified.

(8) A requirement that the taxpayer shall provide written notification to the director and the corporation not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(9) Any other performance conditions that the corporation determines are appropriate.

(b) A taxpayer who is awarded a credit under this chapter for employees who participated in a course of study that included a cooperative agreement between an employer and an educational institution for the training of students in high wage, high demand jobs that require an industry certification may claim the credit only for employees whose course of study included a cooperative arrangement between the taxpayer and an educational institution for the training of students in high wage, high demand jobs that
require an industry certification.

SECTION 9. IC 22-4.5-9-2 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 2. As used in this chapter, “system” refers to the Indiana workforce intelligence system established by IC 22-4.5-10-3.

SECTION 10. IC 22-4.5-9-4, AS AMENDED BY SEA 24-2014, SECTION 101, AND BY HEA 1064-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Sec. 4. (a) The council shall do all of the following:

(1) Provide coordination to align the various participants in the state's education, job skills development, and career training system.

(2) Match the education and skills training provided by the state's education, job skills development, and career training system with the currently existing and future needs of the state's job market.

(3) Provide administrative oversight of the system.

(4) In addition to the department's annual report provided under IC 22-4-18-7, submit, not later than August 1, 2013, and not later than November 1 each year thereafter, to the legislative council in an electronic format under IC 5-14-6 an inventory of current job and career training activities conducted by:

(A) state and local agencies; and

(B) whenever the information is readily available, private groups, associations, and other participants in the state's education, job skills development, and career training system.

The inventory must provide at least the information listed in IC 22-4-18-7(a)(1) through IC 22-4-18-7(a)(5) for each activity in the inventory.

(5) Submit, not later than July 1, 2014, to the legislative council in an electronic format under IC 5-14-6 a strategic plan to improve the state's education, job skills development, and career training system. The council shall submit, not later than December 1, 2013, to the legislative council in an electronic format under IC 5-14-6 a progress report concerning the development of the strategic plan. The strategic plan developed under this subdivision must include at least the following:

(A) Proposed changes, including recommended legislation and rules, to increase coordination, data sharing, and communication among the state, local, and private agencies, groups, and associations that are involved in education, job skills development, and career training.

(B) Proposed changes to make Indiana a leader in employment opportunities related to the fields of science, technology,
engineering, and mathematics (commonly known as STEM).
(C) Proposed changes to address both:
   (i) the shortage of qualified workers for current employment
       opportunities; and
   (ii) the shortage of employment opportunities for individuals
       with a baccalaureate or more advanced degree.

(5) Complete, not later than August 1, 2014, a return on
investment and utilization study of career and technical education
programs in Indiana. The study conducted under this subdivision
must include at least the following:
   (A) An examination of Indiana's career and technical
       education programs to determine:
           (i) the use of the programs; and
           (ii) the impact of the programs on college and career
               readiness, employment, and economic opportunity.
   (B) A survey of the use of secondary, college, and university
       facilities, equipment, and faculty by career and technical
       education programs.
   (C) Recommendations concerning how career and technical
       education programs:
           (i) give a preference for courses leading to employment in
               high wage, high demand jobs; and
           (ii) add performance based funding to ensure greater
               competitiveness among program providers and to increase
               completion of industry recognized credentials and dual
               credit courses that lead directly to employment or
               postsecondary study.

(6) Coordinate the performance of its duties under this chapter
with:
   (A) the education roundtable established by IC 20-19-4-2; and
   (B) the Indiana works councils established by IC 20-19-6-4.

(b) In performing its duties, the council shall obtain input from the
following:
   (1) Indiana employers and employer organizations.
   (2) Public and private institutions of higher education.
   (3) Regional and local economic development organizations.
   (4) Indiana labor organizations.
   (5) Individuals with expertise in career and technical education.
   (6) Military and veterans organizations.
   (7) Organizations representing women, African-Americans,
       Latinos, and other significant minority populations and having an
       interest in issues of particular concern to these populations.
(8) Individuals and organizations with expertise in the logistics industry.
(9) Any other person or organization that a majority of the voting members of the council determines has information that is important for the council to consider.

SECTION 11. IC 22-4.5-9-9, AS ADDED BY P.L.60-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. The governor may request the assistance of any state agency, board, commission, committee, department, division, or other entity of the executive department of state government as necessary to provide staff and administrative support to the council.

SECTION 12. IC 22-4.5-10-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.5. As used in this chapter, "governance committee" refers to the INK governance committee established by section 7 of this chapter.

SECTION 13. IC 22-4.5-10-2, AS ADDED BY P.L.60-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. As used in this chapter, "system" "INK" refers to the Indiana workforce intelligence system network of knowledge established by section 3 of this chapter.

SECTION 14. IC 22-4.5-10-3, AS ADDED BY P.L.60-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. The Indiana workforce intelligence system network of knowledge is established as a statewide longitudinal data system that contains educational and workforce information:

(1) from educational institutions at all levels; and
(2) about the state's workforce;

to improve the effect of the state's educational delivery system on the economic opportunities of individuals and the state's workforce, and to guide state and local decision makers.

SECTION 15. IC 22-4.5-10-4, AS ADDED BY P.L.60-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The system INK must do the following:

(1) Effectively organize, manage, break down, and analyze educational, and workforce, and other data.
(2) Generate timely and accurate information about student progress and outcomes over time, including students' preparation for postsecondary education and the workforce.
(3) Generate timely and accurate information that is available to the public about the effectiveness of the state's job training
programs, including at least the following:

(A) The number of participants in each program.

(B) The number of participants who, as a result of the training received in the program:
   (i) secured employment; or
   (ii) were retained by an employer.

(C) The average wage of the participants who secured employment or were retained by an employer.

(4) Support the economic development and other activities of state and local governments.

(b) The INK may not obtain or store the following student data:

(1) Disciplinary records.

(2) Juvenile delinquency records.

(3) Criminal records.

(4) Medical and health records.

SECTION 16. IC 22-4.5-10-5, AS ADDED BY P.L.60-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) The department of education (established by IC 20-19-3-1), the department of workforce development (established by IC 22-4.1-2-1), the commission for higher education (established by IC 21-18-2-1), and other agencies of the state that collect relevant data related to educational and workforce outcomes shall submit that data to the system INK on a timely basis and shall ensure the following:

(1) Routine and ongoing compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g), IC 22-4-19-6, and other relevant privacy laws and policies, including the following:
   (A) The required use of data that cannot be used to identify information relating to a specific individual or entity.
   (B) The required disposition of information that is no longer needed.
   (C) The provision of a data security plan, including the performance of regular audits for compliance with data privacy and security standards.
   (D) The implementation of guidelines and policies to prevent the reporting of other data that may potentially be used to identify information relating to a specific individual or entity.

(2) The use of data only in summary form in reports and responses to information requests. Data that may identify specific individuals or entities because of the size or uniqueness of the population involved may not be reported in any form.
(b) After June 30, 2014, other agencies of the state shall submit to the INK on a timely basis relevant data, including data at the individual level, as determined by the INK governance committee.

(c) The data submitted to INK under subsections (a) and (b):
   (1) remains under the ownership and control of the agency submitting the data; and
   (2) may be used only for the purposes of this chapter, unless the agency that submitted the data consents to the additional use.

(d) After June 30, 2014, the following may submit educational, workforce, and other relevant data, as applicable, to the INK by working with and through the INK executive director:
   (1) Private sector business or commercial employers, groups, associations, agencies, and other entities.
   (2) Private institutions of higher education.

SECTION 17. IC 22-4.5-10-6, AS ADDED BY P.L.60-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) The:
   (1) council, before July 1, 2018; 2014; and
   (2) governor, governance committee, working in collaboration with the executive director, after June 30, 2018; 2014;
shall provide administrative oversight to the system INK through the executive director.

(b) Administrative oversight of the system INK includes all the following:
   (1) Provide general oversight and direction for the development and maintenance of the system INK, including the organizational framework for the day to day management of the INK.
   (2) Approve an annual budget for the system. Work with the executive director and other state agencies participating in the INK to establish the following:
       (A) A standard compliance time frame for the submission of data to the INK.
       (B) Interagency policies and agreements to ensure equal access to the INK.
       (C) Interagency policies and agreements to ensure the ongoing success of the INK.
   (3) Hire staff necessary to administer the system INK.
   (4) Develop and implement a detailed data security and safeguarding plan that includes:
       (A) access by authenticated authorization;
(B) privacy compliance standards;
(C) notification and other procedures to protect system data if a breach of the INK occurs; and
(D) policies for data retention and disposition.
(5) Oversee

Develop and implement policies to provide routine and ongoing compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g), IC 22-4-19-6, and other relevant privacy laws and policies.

(6) Establish the policy and research agenda for the INK.

(6) (7) Review research requirements and establish policies for responding to data requests from the state, local agencies, the general assembly, and the public. The policies established under this subdivision must provide for access to data in the INK requested by the legislative department of state government. If the data requested by the legislative department includes data that is restricted by federal law, regulation, or executive order, the governance committee shall provide access to the legislative department to the restricted data to the extent permitted by the applicable federal law, regulation, or executive order.

(7) (8) Oversee the development of public access to the INK in a manner that:

(A) permits research using the data in aggregated form; and
(B) cannot provide information that allows the identification of a specific individual or entity.

(8) Identify additional sources of data for the system from among state entities and require those entities to submit relevant data to the system.

(9) Submit, not later than September 1, 2015, and not later than September 1 each year thereafter, to the governor, to the legislative council in an electronic format under IC 5-14-6, and to the council, a report covering the following for the most recent fiscal year:

(A) An update concerning the administration of the INK and the governance committee's activities.
(B) An overview of all studies performed.
(C) Any proposed or planned expansions of the data maintained by the INK.
(D) Any other recommendations made by the executive director and the governance committee.

(c) Funding for the development, maintenance, and use of the system INK may be obtained from any of the following sources:

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(1) Appropriations made by the general assembly for this purpose.
(2) Grants or other assistance from local educational agencies or institutions of higher education.
(3) Federal grants.
(4) User fees.
(5) Grants or amounts received from other public or private entities.

(d) The council (before July 1, 2014) and the governor through the executive director (after June 30, 2014) may contract with public or private entities for the following purposes:

(1) To develop and maintain the system, INK, including the analytical and security capabilities of the INK. Contracts made under this subdivision must include:

   (A) express provisions that safeguard the privacy and security of the INK; and
   (B) penalties for failure to comply with the provisions described in clause (A).

(2) To conduct research in support of the activities and objectives listed in section 4 of this chapter.

(3) To conduct research on topics at the request of the council, the governor, or the general assembly.

SECTION 18. IC 22-4.5-10-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Sec. 7. (a) The INK governance committee is established.

(b) The governance committee consists of at least the following six (6) members:

(1) The commissioner of the department of workforce development, or the commissioner's designee with authority to act on behalf of the commissioner.

(2) The commissioner of the commission for higher education, or the commissioner's designee with authority to act on behalf of the commissioner.

(3) The state superintendent of public instruction, or the state superintendent's designee with authority to act on behalf of the state superintendent.

(4) One (1) member representing private colleges and universities appointed by the governor.

(5) One (1) member representing the business community in Indiana appointed by the governor.

(6) The INK executive director. The INK executive director serves in a nonvoting advisory capacity.
(c) The governor may appoint additional members to the governance committee as necessary to ensure the continued success of the INK. Additional members appointed under this subsection must represent other state agencies or partner organizations, as determined by the governance committee, that submit data to the INK.

(d) A member of the governance committee appointed by the governor serves at the pleasure of the governor.

(e) The governor shall make the initial appointments under this section not later than July 15, 2014.

(f) A vacancy on the governance committee is filled in the same manner as the original appointment.

(g) The governor shall appoint the chair of the governance committee from its voting members. The chair serves for one (1) year, or until a successor is selected.

(h) The governance committee shall meet at least quarterly or at the call of the chair.

(i) A majority of the voting members of the governance committee constitutes a quorum for the purpose of conducting business. The affirmative vote of a majority of the members of the governance committee is required for the governance committee to take official action.

SECTION 19. IC 22-4.5-10-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) The governor shall:

(1) appoint an INK executive director from a list of three (3) candidates submitted by the governance committee; or

(2) reject all of the candidates on the list submitted by the governance committee.

(b) If the governor rejects all of the candidates on the list submitted by the governance committee, the governor shall notify the chair of the governance committee.

(c) Not later than thirty (30) days after the date the governance committee receives the governor's notice under subsection (b), the governance committee shall submit to the governor a second list of three (3) new candidates for the position of INK executive director. The governor shall appoint the INK executive director from the second list of candidates submitted by the governance committee.

(d) The INK executive director serves at the pleasure of the governor.

(e) Whenever a vacancy in the position of INK executive director occurs, the governor shall notify the chair of the
governance committee. Not later than ten (10) days after the date the governance committee receives notice of the vacancy, the chair shall call a meeting of the governance committee to begin the process of filling the vacancy. Not later than thirty (30) days after the date the governance committee receives notice of the vacancy, the governance committee shall submit to the governor a list of three (3) candidates to fill the vacancy.

(f) The governance committee shall submit to the governor the initial list of three (3) candidates for INK executive director not later than August 15, 2014.

(g) The executive director is responsible for the daily administration of the INK.

(h) The executive director shall do all the following:
   (1) Work with the governance committee, state agencies, and other entities participating in the INK to develop and implement appropriate policies and procedures concerning the INK’s data quality, integrity, transparency, security, and confidentiality.
   (2) Coordinate the provision and delivery of data, as determined by the governance committee, to ensure that research project timelines and deliverables to stakeholders are met.
   (3) Provide reports concerning the INK and the executive director's activities to the governor and the governance committee.
   (4) Work in collaboration with the governance committee to hire staff as necessary to administer the INK.
   (5) Perform other duties as assigned by the governor.

SECTION 20. IC 22-4.5-10-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) Each member of the governance committee who is not a state employee is entitled to the following:

   (1) The salary per diem provided under IC 4-10-11-2.1(b).
   (2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
   (3) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the governance committee who is a state employee is entitled to the following:
(1) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
(2) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 21. IC 22-4.5-10.5-3, AS AMENDED BY SEA 24-2014, SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) The department, in consultation with the commission for higher education, the department of education, the office of the secretary of family and social services, and any other agency the department determines is necessary, shall include in the Indiana workforce intelligence system network of knowledge established by IC 22-4.5-10-3 as added by HB 1002-2013, SECTION 2, information regarding the middle skill credentials awarded in Indiana for the immediately preceding state fiscal year.

(b) The information required under subsection (a) must include:
(1) the aggregate number of enrollees in programs leading to middle skill credentials from:
   (A) public institutions of higher education;
   (B) private institutions of higher education;
   (C) postsecondary proprietary educational institutions;
   (D) community colleges;
   (E) area vocational schools;
   (F) high school vocational programs;
   (G) apprenticeship programs; and
   (H) other public or private workforce training programs; and
(2) aggregate data of industry based certifications awarded as the result of the completion of education and employment training programs.
(c) The department shall publish the information described in subsection (b) in the department's annual report.
SCIENCE, TECHNOLOGY, ENGINEERING, AND
MATHEMATICS AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: ____________

LONG TITLE

General Description:
This bill amends provisions relating to the Science, Technology, Engineering, and Mathematics Action Center.

Highlighted Provisions:
This bill:
- defines terms;
- adds members to the STEM Action Center Board;
- allows the STEM Action Center Board to create a foundation;
- specifies that the STEM Action Center shall support high quality professional development for educators related to STEM education in kindergarten through grade 12;
- allows the STEM Action Center to further STEM education with nontechnological means;
- expands the scope of the STEM education related technology program to more students;
- creates the STEM education endorsement and incentive program;
- requires the STEM Action Center to select technology providers to create a certain professional development application;
- requires the STEM Action Center to create in-person STEM education high quality
professional development;
  • creates the STEM education middle school applied science initiative; and
  • creates the STEM education high school applied science initiative.

Money Appropriated in this Bill:
This bill appropriates in fiscal year 2015:
  • to the Governor's Office of Economic Development - STEM Action Center, as an ongoing appropriation:
    • from the General Fund, $10,000,000; and
  • to the Governor's Office of Economic Development - STEM Action Center, as a one-time appropriation:
    • from the General Fund, $13,500,000.

Other Special Clauses:
This bill provides an effective date.

Utah Code Sections Affected:
AMENDS:
  63M-1-3201, as enacted by Laws of Utah 2013, Chapter 336
  63M-1-3202, as enacted by Laws of Utah 2013, Chapter 336
  63M-1-3203, as enacted by Laws of Utah 2013, Chapter 336
  63M-1-3204, as enacted by Laws of Utah 2013, Chapter 336
  63M-1-3205, as enacted by Laws of Utah 2013, Chapter 336
  63M-1-3207, as enacted by Laws of Utah 2013, Chapter 336

ENACTS:
  63M-1-3208, Utah Code Annotated 1953
  63M-1-3209, Utah Code Annotated 1953
  63M-1-3210, Utah Code Annotated 1953
  63M-1-3211, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:
Section 1. Section 63M-1-3201 is amended to read:

63M-1-3201. Definitions.
As used in this part:
(1) "Board" means the STEM Action Center Board created in Section 63M-1-3202.
(2) "Educator" has the meaning defined in Section 53A-6-103.
(3) "High quality professional development" means professional development that meets high quality standards developed by the State Board of Education.
(4) "Office" means the Governor's Office of Economic Development.
(5) "Provider" means a provider, selected by staff of the board and staff of the Utah State Board of Education, on behalf of the board:
   (a) through a request for proposals process; or
   (b) through a direct award or sole source procurement process for a pilot described in Section 63M-1-3205.
(6) "STEM" means science, technology, engineering, and mathematics.
(7) "STEM Action Center" means the center described in Section 63M-1-3204.

Section 2. Section 63M-1-3202 is amended to read:

63M-1-3202. STEM Action Center Board creation -- Membership.
(1) There is created the STEM Action Center Board within the office, composed of the following members:
   (a) six private sector members who represent business, appointed by the governor;
   (b) the state superintendent of public instruction or the state superintendent of public instruction's designee;
   (c) the commissioner of higher education or the commissioner of higher education's designee;
   (d) one member appointed by the governor;
   (e) a member of the State Board of Education, chosen by the chair of the State Board of Education;
   (f) the executive director of the Governor's Office of Economic Development or the executive director of the Governor's Office of Economic Development's designee; [and]
   (g) the president of the Utah College of Applied Technology or the president of the Utah College of Applied Technology's designee[;]
   (h) one member who has a degree in engineering and experience working in a government military installation;
(i) one member of the House of Representatives, appointed by the speaker of the House of Representatives; and

(j) one member of the Senate, appointed by the president of the Senate.

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(d) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the committee requires a majority vote of a quorum.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The governor shall select the chair of the board to serve a one-year term.

(7) The executive director of the Governor's Office of Economic Development or the executive director of the Governor's Office of Economic Development's designee shall serve as the vice chair of the board.

[(8) The state science advisor described in Section 63M-1-606 and the office shall provide staff support to the board:]

Section 3. Section 63M-1-3203 is amended to read:

63M-1-3203. STEM Action Center Board -- Duties.
The board shall:

(a) establish a STEM Action Center program to:

(i) coordinate STEM activities in the state among the following stakeholders:
(A) the State Board of Education;
(B) school districts and charter schools;
(C) the State Board of Regents;
(D) institutions of higher education;
(E) parents of home-schooled students; and
(F) other state agencies;

(ii) align public education STEM activities with higher education STEM activities; and

(iii) create and coordinate best practices among public education and higher education;

(b) with the consent of the Senate, appoint an executive director to oversee the administration of the STEM Action Center;

(c) select a physical location for the STEM Action Center;

(d) strategically engage industry and business entities to cooperate with the board:

(i) to support high quality professional development and provide other assistance for educators and students; and

(ii) to provide private funding and support for the STEM Action Center;

(e) give direction to the STEM Action Center and the providers selected through a request for proposals process pursuant to this part; and

(f) work to meet the following expectations:

(i) that at least 50 educators are implementing best practice learning tools in classrooms per each product specialist or manager working with the STEM Action Center;

(ii) performance change in student achievement in each classroom working with a STEM Action Center product specialist or manager; and

(iii) that students from at least 50 high schools participate in the STEM competitions, fairs, and camps described in Subsection 63M-1-3204(2)(d).

The board may:

(a) enter into contracts for the purposes of this part;

(b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;
(c) employ, compensate, and prescribe the duties and powers of individuals necessary
to execute the duties and powers of the board;
(d) prescribe the duties and powers of the STEM Action Center providers; and
(e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
make rules to administer this part.

(3) The board may establish a foundation to assist in:
(a) the development and implementation of the programs authorized under this part to
promote STEM education; and
(b) implementation of other STEM education objectives described in this part.

(4) A foundation established by the board under Subsection (3):
(a) may solicit and receive contributions from a private organization for STEM
education objectives described in this part;
(b) shall comply with Title 51, Chapter 7, State Money Management Act;
(c) does not have power or authority to incur contractual obligations or liabilities that
constitute a claim against public funds;
(d) may not exercise executive or administrative authority over the programs or other
activities described in this part, except to the extent specifically authorized by the board;
(e) shall provide the board with information detailing transactions and balances of
funds managed for the board; and
(f) may not:
(i) engage in lobbying activities;
(ii) attempt to influence legislation; or
(iii) participate in any campaign activity for or against:
(A) a political candidate; or
(B) an initiative, referendum, proposed constitutional amendment, bond, or any other
ballot proposition submitted to the voters.

Section 4. Section 63M-1-3204 is amended to read:

63M-1-3204. STEM Action Center.
(1) As funding allows, the board shall:
(a) establish a STEM Action Center;
(b) ensure that the STEM Action Center:
(i) is accessible by the public; and
(ii) includes the components described in Subsection (2);
(c) work cooperatively with the State Board of Education to [acquire technology and select schools];
(i) further STEM education; and
(ii) ensure best practices are implemented as described in Sections 63M-1-3205 and 63M-1-3206; and
(d) engage private entities to provide financial support or employee time for STEM activities in schools in addition to what is currently provided by private entities.

(2) As funding allows, the executive director of the STEM Action Center shall:
(a) support high quality professional development for educators regarding [education related instructional technology that supports] STEM education;
(b) ensure that the STEM Action Center acts as a research and development center for STEM education [related instructional technology acquired] through a request for proposals process described in Section 63M-1-3205;
(c) review and acquire STEM education related [technology] materials and products for:
(i) [educator] high quality professional development;
(ii) assessment, data collection, analysis, and reporting; and
(iii) public school instruction;
(d) facilitate participation in interscholastic STEM related competitions, fairs, [and] camps, and STEM education activities;
(e) engage private industry in the development and maintenance of the STEM Action Center and STEM Action Center projects;
(f) use resources to bring the latest STEM education learning tools into public education classrooms;
(g) identify at least 10 best practice innovations used in Utah [schools] that have resulted in at least 80% of students performing at grade level in STEM areas;
(h) identify best practices being used outside the state and, as appropriate, develop and implement selected practices through a pilot program;
(i) identify:
(i) [three] learning tools for kindergarten through grade 6 identified as best practices; and
(ii) [three] learning tools [per STEM subject] for grades 7 through 12 identified as best practices;
(j) provide a Utah best practices database, including best practices from public education, higher education, the Utah Education Network, and other STEM related entities;
(k) keep track of the following items related to the best practices database described in Subsection (2)(j):
   (i) how the best practices database is being used; and
   (ii) how many individuals are using the database, including the demographics of the users, if available;
   (l) as appropriate, join and participate in a national STEM network;
   (m) identify performance changes linked to use of the best practices database described in Subsection (2)(j);
   (n) work cooperatively with the State Board of Education to designate schools as STEM schools, where the schools have agreed to adopt a plan of STEM implementation in alignment with criteria set by the State Board of Education and the board;
   (o) support best methods of high quality professional development[;] for STEM education in kindergarten through grade 12, including methods of high quality professional development that reduce cost and increase effectiveness, to help educators learn how to most effectively implement best practice learning tools in classrooms;
   (p) recognize a high school's achievement in the STEM competitions, fairs, and camps described in Subsection (2)(d);
   (q) send student results from STEM competitions, fairs, and camps described in Subsection (2)(d) to media and ask the media to report on them;
   (r) develop and distribute STEM [toolkits] information to parents of students being served by the STEM Action Center;
   (s) support targeted high quality professional development for improved instruction in STEM [in grades 6, 7, and 8], including:
      (i) improved instructional materials that are dynamic and engaging for students;
      (ii) targeted instruction for students who traditionally avoid enrolling in STEM
courses;

(iii) introduction of [engaging engineering courses] applied instruction; and

(iv) introduction of other research-based methods that support student achievement in

STEM areas; and

(i) ensure that an online college readiness assessment tool be accessible by:

(i) public education students; and

(ii) higher education students.

(3) The board may prescribe other duties for the STEM Action Center in addition to

the responsibilities described in this section.

(4) (a) The executive director shall track and compare the student performance of

students participating in a STEM Action Center program to all other similarly situated students

in the state, in the following STEM related activities, at the beginning and end of each year:

(i) public education high school graduation rates;

(ii) the number of students taking a remedial mathematics course at an institution of

higher education described in Section 53B-2-101;

(iii) the number of students who graduate from a Utah public school and begin a

postsecondary education program; and

(iv) the number of students, as compared to all similarly situated students, who are

performing at grade level in STEM classes.

(b) The State Board of Education and the State Board of Regents shall provide

information to the board to assist the board in complying with the requirements of Subsection

(4)(a) if allowed under federal law.

Section 5. Section 63M-1-3205 is amended to read:

63M-1-3205. Acquisition of STEM education related instructional technology

program -- Research and development of education related instructional technology

through a pilot program.

(1) For purposes of this section:

(a) "Pilot" means a pilot of the program.

(b) "Program" means the STEM education related instructional technology program

created in Subsection (2).

(2) (a) There is created the STEM education related instructional technology program
to provide public schools the STEM education related instructional technology described in Subsection (3).

(b) On behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate and may select one or more providers, through a request for proposals process, to provide STEM education related instructional technology to school districts and charter schools.

(c) On behalf of the board, the staff of the board and the staff of the State Board of Education shall consider and may accept an offer from a provider in response to the request for proposals described in Subsection (2)(b) even if the provider did not participate in a pilot described in Subsection (5).

(3) The STEM education related instructional technology shall:

(a) support mathematics instruction for students in grade 6, 7, or 8;

(i) kindergarten though grade 6; or

(ii) grades 7 and 8; or

(b) support mathematics instruction for secondary students to prepare the secondary students for college mathematics courses.

(4) In selecting a provider for STEM education related instructional technology to support mathematics instruction for students in grade 6, 7, or 8 as described in Subsection (3)(a), the board shall consider the following criteria:

(a) the technology contains individualized instructional support for skills and understanding of the core standards in mathematics;

(b) the technology is self-adapting to respond to the needs and progress of the learner;

and

(c) the technology provides opportunities for frequent, quick, and informal assessments and includes an embedded progress monitoring tool and mechanisms for regular feedback to students and teachers.

(5) Before issuing a request for proposals described in Subsection (2), on behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate and may:

(a) conduct a pilot of the program to test and select providers for the program;

(b) select at least two providers through a direct award or sole source procurement
process for the purpose of conducting the pilot; and

(c) select schools to participate in the pilot.

(6) (a) A contract with a provider for STEM education related instructional technology may include professional development for full deployment of the STEM education related instructional technology.

(b) No more than 10% of the money appropriated for the program may be used to provide professional development related to STEM education related instructional technology in addition to the professional development described in Subsection (6)(a).

Section 6. Section 63M-1-3207 is amended to read:

63M-1-3207. Report to Legislature and the State Board of Education.

(1) The board shall report the progress of the STEM Action Center, including the information described in Subsection (2), to the following groups once each year:

(a) the Education Interim Committee;

(b) the Public Education Appropriations Subcommittee; and

(c) the State Board of Education.

(2) The report described in Subsection (1) shall include information that demonstrates the effectiveness of the program, including:

(a) the number of educators receiving high quality professional development;

(b) the number of students receiving services from the STEM Action Center;

(c) a list of the providers selected pursuant to this part;

(d) a report on the STEM Action Center's fulfilment of its duties described in Subsection 63M-1-3204; and

(e) student performance of students participating in a STEM Action Center program as collected in Subsection 63M-1-3204(4).

Section 7. Section 63M-1-3208 is enacted to read:

63M-1-3208. STEM education endorsement and incentive program.

The STEM Action Center shall collaborate with the State Board of Education to:

(1) develop a STEM education endorsement; and

(2) create and implement financial incentives for educators who earn an elementary or secondary STEM education endorsement described in Subsection (1).

Section 8. Section 63M-1-3209 is enacted to read:
(1) From the technology providers tested under the pilot described in Subsection 63M-1-3205(5), the STEM Action Center shall, in accordance with Chapter 63G, Title 6a, Utah Procurement Code, select technology providers for the purpose of providing a STEM education high quality professional development application.

(2) The high quality professional development application described in Subsection (1) shall:

(a) allow the State Board of Education, a school district, or a school to define the application's input and track educator performance;

(b) allow educators to access automatic tools, resources, and strategies;

(c) allow educators to work in online learning communities, including giving and receiving feedback via uploaded video;

(d) track and report data on the usage of the components of the application's system and the relationship to improvement in classroom instruction;

(e) include video examples of highly effective STEM education teaching that:

(i) cover a cross section of grade levels and subjects;

(ii) under the direction of the State Board of Education, include videos of highly effective Utah STEM educators; and

(iii) contain tools to help educators implement what they have learned; and

(f) allow for additional STEM education video content to be added.

(3) In addition to the high quality professional development application described in Subsections (1) and (2), the STEM Action Center may create STEM education hybrid or blended high quality professional development that allows for face-to-face applied learning.

Section 9. Section 63M-1-3210 is enacted to read:

(1) The STEM Action Center shall develop an applied science program for students in grades 7 and 8.

(2) The program described in Subsection (1) shall include:

(a) a STEM applied science curriculum with instructional materials;

(b) STEM hybrid or blended high quality professional development that allows for
face-to-face applied learning; and

c) hands-on tools for STEM applied science learning.

3 The STEM Action Center may, through the request for proposals process, select a
consultant to assist in developing the program described in Subsection (1).

Section 10. Section 63M-1-3211 is enacted to read:

63M-1-3211. High school STEM education initiative.

1 Subject to legislative appropriations, the STEM Action Center shall award grants to
school districts and charter schools to fund STEM certification for high school students.

2 (a) A school district or charter school may apply for a grant from the STEM Action
Center, through a competitive process, to fund the school district's or charter school's STEM
certification training program.

3 (b) A school district's or charter school's STEM certification training program shall:

4 (i) prepare high school students to be job ready for available STEM positions of
employment; and

5 (ii) when a student completes the program, result in the student gaining a nationally
industry-recognized employer STEM certification.

6 (3) A school district or charter school may partner with a Utah College of Technology
college campus or private sector employer to provide a STEM certification training program.

Section 11. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money
are appropriated from resources not otherwise appropriated, or reduced from amounts
previously appropriated, out of the funds or accounts indicated. These sums of money are in
addition to any amounts previously appropriated for fiscal year 2015.

To Governor's Office of Economic Development - STEM Action Center

From General Fund $10,000,000
From General Fund, one-time $13,500,000

Schedule of Programs:

STEM Action Center $23,500,000

The Legislature intends that:

1 up to $5,000,000 of the appropriation for the STEM Action Center program be used
for STEM education related instructional technology and related professional development to
support mathematics instruction as described in Subsection 63M-1-3205(3)(a) and Section
63M-1-3206, and related assessment, data collection, analysis, and reporting;
(2) up to $5,000,000 of the appropriation for the STEM Action Center program be used
for developing the STEM education endorsement and related incentive program described in
Section 63M-1-3208;
(3) up to $5,000,000 of the appropriation for the STEM Action Center program be used
for providing a STEM education high quality professional development application as
described in Section 63M-1-3209;
(4) up to $3,500,000 of the appropriation for the STEM Action Center program be used
to fund the STEM education middle school applied science initiative described in Section
63M-1-3210;
(5) up to $5,000,000 of the appropriation for the STEM Action Center program be used
to fund the high school STEM education initiative described in Section 63M-1-3210;
(6) the appropriations described in Subsections (3), (4), and (5):
(a) are one-time; and
(b) not lapse at the close of fiscal year 2015; and
(7) the appropriations described in Subsections (1) and (2):
(a) are ongoing; and
(b) not lapse at the close of fiscal year 2015.

Section 12. Effective date.
(1) Except as provided in Subsection (2), if approved by two-thirds of all the members
elected to each house, this bill takes effect upon approval by the governor, or the day following
the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
signature, or in the case of a veto, the date of veto override.
(2) Uncodified Section 11, Appropriation, takes effect on July 1, 2014.
No. 77. An act relating to encouraging flexible pathways to secondary school completion.

(S.130)

It is hereby enacted by the General Assembly of the State of Vermont:

** Flexible Pathways Initiative; Dual Enrollment **

Sec. 1. 16 V.S.A. chapter 23, subchapter 2 is added to read:

Subchapter 2. Flexible Pathways to Secondary School Completion

§ 941. FLEXIBLE PATHWAYS INITIATIVE

(a) There is created within the Agency a Flexible Pathways Initiative:

(1) to encourage and support the creativity of school districts as they develop and expand high-quality educational experiences that are an integral part of secondary education in the evolving 21st Century classroom;

(2) to promote opportunities for Vermont students to achieve postsecondary readiness through high-quality educational experiences that acknowledge individual goals, learning styles, and abilities; and

(3) to increase the rates of secondary school completion and postsecondary continuation in Vermont.

(b) The Secretary shall develop, publish, and regularly update guidance, in the form of technical assistance, sharing of best practices and model documents, legal interpretations, and other support designed to assist school districts:
(1) to identify and support secondary students who require additional assistance to succeed in school and to identify ways in which individual students would benefit from flexible pathways to graduation;

(2) to work with every student in grade seven through grade 12 in an ongoing personalized learning planning process that:
   (A) identifies the student’s emerging abilities, aptitude, and disposition;
   (B) includes participation by families and other engaged adults;
   (C) guides decisions regarding course offerings and other high-quality educational experiences; and
   (D) is documented by a personalized learning plan;

(3) to create opportunities for secondary students to pursue flexible pathways to graduation that:
   (A) increase aspiration and encourage postsecondary continuation of training and education;
   (B) are an integral component of a student’s personalized learning plan; and
   (C) include:
      (i) applied or work-based learning opportunities, including career and technical education and internships;
      (ii) virtual learning and blended learning:
(iii) dual enrollment opportunities as set forth in section 944 of this title;

(iv) early college programs as set forth in subsection 4011(e) of this title;

(v) the High School Completion Program as set forth in section 943 of this title; and

(vi) the Adult Diploma Program and General Educational Development Program as set forth in section 946 of this title; and

(4) to provide students, beginning no later than in the seventh grade, with career development and postsecondary planning resources to ensure that they are able to take full advantage of the opportunities available within the flexible pathways to graduation and to achieve their career and postsecondary education and training goals.

(c) Nothing in this subchapter shall be construed as discouraging or limiting the authority of any school district to develop or continue to provide educational opportunities for its students that are otherwise permitted, including the provision of Advanced Placement courses.

(d) An individual entitlement or private right of action shall not arise from creation of a personalized learning plan.

§ 942. DEFINITIONS

As used in this title:
(1) “Accredited postsecondary institution” means a postsecondary institution that has been accredited by the New England Association of Schools and Colleges or another regional accrediting agency recognized by the U.S. Department of Education.

(2) “Approved provider” means an entity approved by the Secretary to provide educational services that may be awarded credits or used to determine proficiency necessary for a high school diploma.

(3) “Blended learning” means a formal education program in which content and instruction are delivered both in a traditional classroom setting and through virtual learning.

(4) “Career development” means the identification of student interests and aptitudes and the ability to link these to potential career paths and the training and education necessary to succeed on these paths.

(5) “Carnegie unit” means 125 hours of class or contact time with a teacher over the course of one year at the secondary level.

(6) “Contracting agency” means an entity that enters into a contract with the Agency to provide “flexible pathways to graduation” services itself or in conjunction with one or more approved providers in Vermont.

(7) “Dual enrollment” means enrollment by a secondary student in a course offered by an accredited postsecondary institution and for which, upon successful completion of the course, the student will receive:
(A) secondary credit toward graduation from the secondary school in which the student is enrolled; and

(B) postsecondary credit from the institution that offered the course if the course is a credit-bearing course at that institution.

(8) “Early college” means full-time enrollment, pursuant to subsection 4011(e) of this title, by a 12th grade Vermont student for one academic year in a program offered by a postsecondary institution in which the credits earned apply to secondary school graduation requirements.

(9) “Flexible pathways to graduation” means any combination of high-quality academic and experiential components leading to secondary school completion and postsecondary readiness, which may include assessments that allow the student to apply his or her knowledge and skills to tasks that are of interest to that student.

(10) “Personalized learning plan” and “PLP” mean documentation of an evolving plan developed on behalf of a student in an ongoing process involving a secondary student, a representative of the school, and, if the student is a minor, the student’s parents or legal guardian and updated at least annually by November 30; provided, however, that a home study student and the student’s parent or guardian shall be solely responsible for developing a plan. The plan shall be developmentally appropriate and shall reflect the student’s emerging abilities, aptitude, and disposition. The plan shall define the scope and rigor of academic and experiential opportunities necessary for a
secondary student to complete secondary school successfully, attain
postsecondary readiness, and be prepared to engage actively in civic life.

While often less formalized, personalized learning and personalized
instructional approaches are critical to students in kindergarten through grade 6
as well.

(11) “Postsecondary planning” means the identification of education and
training programs after high school that meet a student’s academic, vocational,
financial, and social needs and the identification of financial assistance
available for those programs.

(12) “Postsecondary readiness” means the ability to enter the workforce
or to pursue postsecondary education or training without the need for
remediation.

(13) “Virtual learning” means learning in which the teacher and student
communicate concurrently through real-time telecommunication. “Virtual
learning” also means online learning in which communication between the
teacher and student does not occur concurrently and the student works
according to his or her own schedule.

§ 943. [RESERVED.]

§ 944. DUAL ENROLLMENT PROGRAM

(a) Program creation. There is created a statewide Dual Enrollment
Program to be a potential component of a student’s flexible pathway. The
Program shall include college courses offered on the campus of an accredited
postsecondary institution and college courses offered by an accredited
postsecondary institution on the campus of a secondary school. The Program
may include online college courses or components.

(b) Students.

(1) A Vermont resident who has completed grade 10 but has not
received a high school diploma is eligible to participate in the Program if:

(A) the student:

(i) is enrolled in:

(I) a Vermont public school, including a Vermont career
technical center;

(II) a public school in another state or an approved independent
school that is designated as the public secondary school for the student's
district of residence; or

(III) an approved independent school in Vermont to which the
student’s district of residence pays publicly funded tuition on behalf of the
student;

(ii) is assigned to a public school through the High School
Completion Program; or

(iii) is a home study student;

(B) dual enrollment is an element included within the student’s
personalized learning plan; and
(C) the secondary school and the postsecondary institution have determined that the student is sufficiently prepared to succeed in a dual enrollment course, which can be determined in part by the assessment tool or tools identified by the participating postsecondary institution.

(2) An eligible student may enroll in up to two dual enrollment courses prior to completion of secondary school for which neither the student nor the student’s parent or guardian shall be required to pay tuition. A student may enroll in courses offered while secondary school is in session and during the summer.

(c) Public postsecondary institutions. The Vermont State Colleges and the University of Vermont shall work together to provide dual enrollment opportunities throughout the State.

(1) When a dual enrollment course is offered on a secondary school campus, the public postsecondary institution shall:

(A) retain authority to determine course content; and

(B) work with the secondary school to select, monitor, support, and evaluate instructors.

(2) The public postsecondary institution shall maintain the postsecondary academic record of each participating student and provide transcripts on request.

(3) To the extent permitted under the Family Educational Rights and Privacy Act, the public postsecondary institution shall collect and send data
related to student participation and success to the student’s secondary school and the Secretary and shall send data to the Vermont Student Assistance Corporation necessary for the Corporation’s federal reporting requirements.

(4) The public postsecondary institution shall accept as full payment the tuition set forth in subsection (f) of this section.

(d) Secondary schools. Each school identified in subdivision (b)(1) of this section that is located in Vermont shall:

(1) provide access for eligible students to participate in any dual enrollment courses that may be offered on the campus of the secondary school;

(2) accept postsecondary credit awarded for dual enrollment courses offered by a Vermont public postsecondary institution under this section as meeting secondary school graduation requirements;

(3) collect enrollment data as prescribed by the Secretary for longitudinal review and evaluation;

(4) identify and provide necessary support for participating students and continue to provide services for students with disabilities; and

(5) provide support for a seamless transition to postsecondary enrollment upon graduation.

(e) Program management. The Agency shall manage or may contract for the management of the Dual Enrollment Program in Vermont by:

(1) marketing the Dual Enrollment Program to Vermont students and their families;
(2) assisting secondary and postsecondary partners to develop memoranda of understanding, when requested;

(3) coordinating with secondary and postsecondary partners to understand and define student academic readiness;

(4) convening regular meetings of interested parties to explore and develop improved student support services;

(5) coordinating the use of technology to ensure access and coordination of the Program;

(6) reviewing program costs;

(7) evaluating all aspects of the Dual Enrollment Program and ensuring overall quality and accountability; and

(8) performing other necessary or related duties.

(f) Tuition and funding.

(1) Tuition shall be paid to public postsecondary institutions in Vermont as follows:

(A) For any course for which the postsecondary institution pays the instructor, the student’s school district of residence shall pay tuition to the postsecondary institution in an amount equal to the tuition rate charged by the Community College of Vermont (CCV) at the time the dual enrollment course is offered; provided however, that tuition paid to CCV under this subdivision (A) shall be in an amount equal to 90 percent of the CCV rate.
(B) For any course that is taught by an instructor who is paid as part of employment by a secondary school, the student’s school district of residence shall pay tuition to the postsecondary institution in an amount equal to 20 percent of the tuition rate charged by the Community College of Vermont at the time the dual enrollment course is offered.

(2) Notwithstanding subdivision (1) of this subsection requiring the district of residence to pay tuition, the State shall pay 50 percent of the tuition owed to public postsecondary institutions under subdivision (1)(A) of this subsection from the Next Generation Initiative Fund created in section 2887 of this title; provided, however, that the total amount paid by the State in any fiscal year shall not exceed the total amount of General Fund dollars the General Assembly appropriated from the Fund in that year for dual enrollment purposes plus any balance carried forward from the previous fiscal year; and further provided that, notwithstanding subdivision (b)(2) of this section, the cumulative amount to be paid by school districts under subdivision (1)(A) in any fiscal year shall not exceed the amount available to be paid by General Fund dollars in that year.

(3) If it agrees to the terms of subsection (c) of this section, an accredited private postsecondary institution in Vermont approved pursuant to section 176 of this title shall receive tuition pursuant to subdivisions (1) and (2) of this subsection (f) for each eligible student it enrolls in a college-level course under this section.
(g) Private and out-of-state postsecondary institutions. Nothing in this section shall be construed to limit a school district’s authority to enter into a contract for dual enrollment courses with an accredited private or public postsecondary institution not identified in subsection (c) of this section located in or outside Vermont. The school district may negotiate terms different from those set forth in this section, including the amount of tuition to be paid. The school district may determine whether enrollment by an eligible student in a course offered under this subsection shall constitute one of the two courses authorized by subdivision (b)(2) of this section.

(h) Number of courses. Nothing in this section shall be construed to limit a school district’s authority to pay for more than the two courses per eligible student authorized by subdivision (b)(2) of this section; provided, however, that payment under subdivision (f)(2) of this section shall not be made for more than two courses per eligible student.

(i) Other postsecondary courses. Nothing in this section shall be construed to limit a school district’s authority to award credit toward graduation requirements to a student who receives prior approval from the school and successfully completes a course offered by an accredited postsecondary institution that was not paid for by the district pursuant to this section. The school district shall determine the number and nature of credits it will award to the student for successful completion of the course, including whether the course will satisfy one or more graduation requirements, and shall inform the
student prior to enrollment. Credits awarded shall be based on performance and not solely on Carnegie units; provided, however, that unless the school district determines otherwise, a three-credit postsecondary course shall be presumed to equal one-half of a Carnegie unit. A school district shall not withhold approval or credit without reasonable justification. A student may request that the superintendent review the district’s determination regarding course approval or credits. The superintendent’s decision shall be final.

(j) Reports. Notwithstanding 2 V.S.A. § 20(d), the Secretary shall report to the House and Senate Committees on Education annually in January regarding the Dual Enrollment Program, including data relating to student demographics, levels of participation, marketing, and program success.

§ 945. [RESERVED.]

Sec. 2. DUAL ENROLLMENT; TRANSITION; FUNDING; NONOPERATING DISTRICTS

(a) Notwithstanding any provision of Sec. 1, 16 V.S.A. § 944(f), to the contrary, the State shall pay 100 percent of the tuition owed to postsecondary institutions under subdivision (f)(1) for courses offered in fiscal years 2014 and 2015; provided, however, that the total amount paid by the State in either fiscal year shall not exceed the total amount of General Fund dollars the General Assembly appropriated from the Fund in that year for dual enrollment purposes plus any balance carried forward from the previous fiscal year. Any balance
carried forward from fiscal year 2015 shall be used to satisfy the financial obligations of school districts under subsection (f) in fiscal year 2016.

(b)(1) The Secretary shall analyze issues relating to providing dual enrollment opportunities pursuant to Sec. 1 of this act to publicly funded students enrolled in Vermont approved independent schools. Specifically, the analysis shall include:

(A) the anticipated utilization of dual enrollment opportunities;
(B) the anticipated financial impact on sending school districts;
(C) the ways in which sending school districts will ensure student participation in a personalized learning planning process and inclusion of dual enrollment in the student’s plan; and

(D) other financial and programmatic issues related to dual enrollment access by publicly funded students enrolled in approved independent schools.

(2) On or before February 1, 2014, the Secretary shall report the results of the analysis to the House and Senate Committees on Education together with any recommendations for amendment to statutes or rules, including whether it would be advisable to amend or repeal Sec. 1, 16 V.S.A. § 944(b)(1)(A)(i)(III) (eligibility of publicly funded student enrolled in Vermont approved independent school).

Sec. 3. REPEAL

16 V.S.A. § 913 (secondary credit; postsecondary course) is repealed.
* * * Flexible Pathways: High School Completion Program * * *

Sec. 4. 16 V.S.A. § 1049a is redesignated to read:

§ 1049a. HIGH SCHOOL COMPLETION PROGRAM

Sec. 5. 16 V.S.A. § 943 is amended to read:

§ 943. HIGH SCHOOL COMPLETION PROGRAM

(a) In this section:

(1) “Graduation education plan” means a written plan leading to a high school diploma for a person who is 16 to 22 years of age and has not received a high school diploma, who may or may not be enrolled in a public or approved independent school. The plan shall define the scope and rigor of services necessary for the student to attain a high school diploma, and may describe educational services to be provided by a public high school, an approved independent high school, an approved provider, or a combination of these.

(2) “Approved provider” means an entity approved by the commissioner to provide educational services which may be counted for credit toward a high school diploma.

(3) “Contracting agency” means an agency that has entered into a contract with the department of education to provide adult education services in Vermont.

There is created a High School Completion Program to be a potential component of a flexible pathway for any Vermont student who is at least
16 years old, who has not received a high school diploma, and who may or
may not be enrolled in a public or approved independent school.

(b) If a person who wishes to work on a graduation education plan
personalized learning plan leading to graduation through the High School
Completion Program is not enrolled in a public or approved independent
school, then the commissioner Secretary shall assign the prospective student to
a high school district, which shall be the district of residence whenever
possible. The school district in which a student is enrolled or to which a
non-enrolled student is assigned shall work with the contracting agency and the
student to develop a graduation education personalized learning plan. The
school district shall award a high school diploma upon successful completion
of the plan.

(c) The commissioner Secretary shall reimburse, and net cash payments
where possible, a school district that has agreed to a graduation education
personalized learning plan developed under this section in an amount:

(1) established by the commissioner Secretary for the development and
ongoing evaluation and revision of the graduation education personalized
learning plan and for other educational services typically provided by the
assigned district or an approved independent school pursuant to the plan, such
as counseling, health services, participation in cocurricular activities, and
participation in academic or other courses; provided, however, that this
amount shall not be available to a school district that provides services under this section to an enrolled student; and

(2) negotiated by the commissioner Secretary and the contracting agency, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the graduation education personalized learning plan.

* * * Flexible Pathways: Adult Diploma Program; GED * * *

Sec. 6. 16 V.S.A. § 1049 is redesignated to read:

§ 1049. PROGRAMS § 945. ADULT DIPLOMA PROGRAM; GENERAL EDUCATIONAL DEVELOPMENT PROGRAM

Sec. 7. 16 V.S.A. § 945 is amended to read:

§ 945. ADULT DIPLOMA PROGRAM; GENERAL EDUCATIONAL DEVELOPMENT PROGRAM

(a) The commissioner of education may provide programs designed to fit the individual needs and circumstances of adult students. Programs authorized under this section shall give priority to those adult persons with the lowest levels of literacy skills.

(b)(1) Fees for general educational development shall be $3.00 for a transcript.

(2) The Secretary shall maintain an adult diploma program (ADP) means, which shall be an assessment process administered by the Vermont department of education Agency through which an adult individual who is at
least 20 years old can receive a local high school diploma granted by one of the
program’s participating high schools.

(3) General  (b)  The Secretary shall maintain a general educational
development (GED) means a testing program administered jointly by the
Vermont department of education, program, which it shall administer jointly
with the GED testing service, and approved local testing centers and through
which an adult individual who is at least 16 years old and who is not enrolled
in secondary school can receive a secondary school equivalency certificate
based on successful completion of the GED tests of general educational
development.

(c) Fees collected under this section shall be credited to a special fund
established and managed pursuant to chapter 7, subchapter 5 of Title 32, and
shall be available to the department to offset the costs of providing those
services  The Secretary may provide additional programs designed to address
the individual needs and circumstances of adult students, particularly students
with the lowest levels of literacy skills.

* * * Flexible Pathways: Early College * * *

Sec. 8.  16 V.S.A. § 4011(e) is amended to read:

(e) Early college.

(1) The commissioner  For each 12th grade Vermont student enrolled,
the Secretary shall pay an amount equal to 87 percent of the base education
amount to:
(A) the Vermont Academy of Science and Technology for each Vermont resident, 12th grade student enrolled (VAST); and

(B) an early college program other than the VAST program that is developed and operated or overseen by one of the Vermont State Colleges, by the University of Vermont, or by an accredited private postsecondary school located in Vermont and that is approved for operation by the Secretary; provided, however, when making a payment under this subdivision (B), the Secretary shall not pay more than the tuition charged by the institution.

(2) The Secretary shall make the payment pursuant to subdivision (1) of this subsection directly to the postsecondary institution, which shall accept the amount as full payment of the student’s tuition.

(3) A student on whose behalf the Secretary makes a payment pursuant to subdivision (1) of this subsection:

(A) shall be enrolled as a full-time student in the institution receiving the payment for the academic year for which payment is made;

(B) shall not be enrolled concurrently in a secondary school operated by the student’s district of residence or to which the district pays tuition on the student’s behalf; and

(C) shall not be included in the average daily membership of any school district for the academic year for which payment is made; provided, however, that if more than five percent of the 12th grade students residing in a district enroll in an early college program, then the district may include the
number of students in excess of five percent in its average daily membership; but further provided that a 12th grade student enrolled in a college program shall be included in the percentage calculation only if, for the previous academic year, the student was enrolled in a school maintained by the district or was a student for whom the district paid tuition to a public or approved independent school.

(4) A postsecondary institution shall not accept a student into an early college program unless enrollment in an early college program was an element of the student’s personalized learning plan.

Sec. 9. 16 V.S.A. § 1545(c) is amended to read:

(c) For any resident 12th grade student attending the Vermont academy for science and technology enrolled in the Vermont Academy of Science and Technology pursuant to subsection 4011(e) of this title or in another early college program pursuant to that subsection, the credits and grades earned shall, upon request of the student or the student’s parent or guardian, be applied toward graduation requirements at the Vermont high school which secondary school that the student attended prior to enrolling in the academy early college program.

Sec. 10. 16 V.S.A. § 4011a is added to read:

§ 4011a. EARLY COLLEGE PROGRAM; REPORT; APPROPRIATION

(a) Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution receiving funds pursuant to subsection 4011(e) of this title shall report annually
in January to the Senate and House Committees on Education regarding the level of participation in the institution’s early college program, the success in achieving the stated goals of the program to enhance secondary students’ educational experiences and prepare them for success in college and beyond, and the specific outcomes for participating students relating to programmatic goals.

(b) In the budget submitted annually to the General Assembly pursuant to 32 V.S.A. chapter 5, the Governor shall include the recommended appropriation for all early college programs to be funded pursuant to subsection 4011(e) of this title, including the VAST program, as a distinct amount.

Sec. 11. EARLY COLLEGE; ENROLLMENT; CAPS; REPORTS; SUNSET

(a) A postsecondary institution receiving funds in connection with an early college program pursuant to Sec. 8, 16 V.S.A. § 4011(e), of this act shall not enroll more than 18 Vermont students in the program in one academic year; provided, however, that:

(1) the Vermont Academy of Science and Technology shall not enroll more than 60 Vermont students in one academic year; and

(2) there shall be no limitations on enrollment in any early college programs offered by the Community College of Vermont.

(b) Annually in January of 2014 through 2017, the Vermont State Colleges and the University of Vermont shall report to the House and Senate
Committees on Education regarding the expansion of the early college program in public and private postsecondary institutions as provided in Sec. 8 of this act, including data regarding actual enrollment, expected enrollment, unmet demand, if any, and marketing efforts for the purpose of considering whether it would be advisable to consider legislation repealing or amending the limit on the total number of students who may enroll.

(c) This section is repealed on July 1, 2017.

*** Implementation and Transitional Provisions; Effective Dates ***

Sec. 12. FLEXIBLE PATHWAYS IMPLEMENTATION PROJECT ON POSTSECONDARY PLANNING

To assist implementation of the Flexible Pathways Initiative established in Sec. 1 of this act, the Secretary of Education is authorized to enter into an agreement with the Vermont Student Assistance Corporation and one or more elementary or secondary schools to design and implement demonstration projects related to career planning and planning for postsecondary education and training.

Sec. 13. PERSONALIZED LEARNING PLAN PROCESS; IMPLEMENTATION; WORKING GROUP

(a) The process of developing and updating a personalized learning plan reflects the discussions and collaboration of a student and involved adults.

When students engage in the personalized learning plan process, they assume
an active role in the planning, assessment, and reflection required to identify
developmentally appropriate academic, social, and career goals.

(b) On or before July 15, 2013, the Secretary of Education shall convene a
working group to consist of teachers and principals of elementary and
secondary schools, superintendents, and other interested parties to support
implementation of the personalized learning plan process, particularly in those
schools that do not already have a process in place. The working group shall
consider ways in which effective personalized learning plan processes enhance
development of the evolving academic, career, social, transitional, and family
engagement elements of a student’s plan and shall identify best practices that
can be replicated in other schools. The working group also shall consider ways
in which the personalized learning that should occur in kindergarten through
grade six can be used to reinforce and enhance the personalized learning plan
process in grade seven through grade 12.

(c) By January 20, 2014, the working group shall develop and the Secretary
shall publish on the Agency website guiding principles and practical tools for
the personalized learning plan process and for developing personalized
learning plans. The Secretary shall provide clarity regarding the differences in
form, purpose, and function of personalized learning plans, educational support
teams, plans created pursuant to section 504 of the federal Rehabilitation Act
of 1973, and individualized education programs (IEPs). The Agency shall
provide further guidance and support to schools as requested.
Sec. 14. EFFECTIVE DATE; IMPLEMENTATION DATES

(a) This act shall take effect on July 1, 2013.

(b)(1) By November 30, 2015, a school district shall ensure development of a personalized learning plan for:

(A) each student then in grade seven or nine; and

(B) for each student then in grade 11 or 12 who wishes to enroll in a dual enrollment pursuant to Sec. 1 of this act.

(2) By November 30, 2016, a school district:

(A) shall ensure development of a personalized learning plan for:

   (i) each student then in grade seven or nine; and

   (ii) each student then in grade 11 or 12 who wishes to enroll in a dual enrollment course; and

   (B) shall ensure that the personalized learning plan process continues for enrolled students for whom plans were developed in previous years.

(3) By November 30, 2017 and by that date in each subsequent year, a school district:

(A) shall ensure development of a personalized learning plan for:

   (i) each student then in grade seven; and

   (ii) each student then in grade 11 or 12 who wishes to enroll in a dual enrollment course for whom a plan was not previously developed; and

   (B) shall ensure that the personalized learning plan process continues for enrolled students for whom plans were developed in previous years.
(4) During academic years 2013–14 and 2014–15, a student who has not
developed a personalized learning plan may enroll in a dual enrollment course
pursuant to Sec. 1 of this act or an early college program pursuant to Sec. 8 of
this act upon receiving prior approval of participation from the postsecondary
institution and the principal or headmaster of the secondary school in which
the student is enrolled. The principal or headmaster shall not withhold
approval without reasonable justification. A student may request that the
superintendent review a decision of the principal or headmaster to withhold
approval. The superintendent’s decision shall be final.

(5) Upon the recommendation of the working group created in Sec. 13
of this act, the Secretary of Education may extend by one year any of the
implementation dates required under this subsection (b).

(c) Funds for new early college programs pursuant to Sec. 8, 16 V.S.A.
§ 4011(e)(1)(B), of this act shall be available to students beginning in the
2014–2015 academic year.

Date the Governor signed the bill: June 6, 2013
Stricken language would be deleted from and underlined language would be added to present law.

Act 1285 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

By: Representative Mayberry

For An Act To Be Entitled

AN ACT TO ESTABLISH THE COLLEGE AND CAREER COACHES PROGRAM; TO ASSURE THAT ALL STUDENTS HAVE ACCESS TO A COLLEGE AND CAREER COACH FOR THE PURPOSE OF RECEIVING ASSISTANCE IN PREPARING FOR EDUCATION, TRAINING, AND CAREERS AFTER HIGH SCHOOL; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH THE COLLEGE AND CAREER COACHES PROGRAM; AND TO ASSURE ACCESS TO A COLLEGE AND CAREER COACH FOR ALL STUDENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY.

The General Assembly finds that:

(1) Many students leave high school:

(A) Without a plan for their education, training, or career after high school;

(B) Unaware or lacking understanding of the process or preparation required for success after high school graduation; and

(C) Failing to recognize the value of secondary education, leading to high dropout rates; and

(2) The state has a responsibility to assist the citizens of Arkansas to advance and to prosper by providing access to the College and Career Coaches Program that will assist students by:

(A) Intervening at the middle school and high school
(B) Assisting students with developing and maintaining
dynamic career plans;

(C) Exposing students to various opportunities for careers
and education after high school; and

(D) Educating students about the process for pursuing
postsecondary education and financial assistance.

SECTION 2. Arkansas Code Title 6, Chapter 1, is amended to add an
additional subchapter to read as follows:

Subchapter 6 - College and Career Coaches Program

6-1-601. Findings.
The General Assembly finds that:

(1) Highly skilled and educated people who can handle demanding
jobs and generate new ideas are necessary for Arkansas to prosper in a global
economy; and

(2) With only eighteen percent (18%) of Arkansans twenty-five
(25) years of age and older holding a baccalaureate degree, Arkansas is
ranked forty-ninth in the nation for adults who hold a baccalaureate degree,
creating a impediment to the success of the state.

6-1-602. Creation - Program participation.

(a)(1) The College and Career Coaches Program is established to assist
students in preparing for postsecondary education or careers.

(2) Coaches shall be accessible to students who attend middle
schools and high schools located in Tier 3 and Tier 4 counties.

(b)(1) School districts located in Tier 3 and Tier 4 counties shall
receive priority to participate in the College and Career Coaches Program.

(2) School districts located outside of Tier 3 and Tier 4
counties who do not have access to a College and Career Coaches Program may
apply jointly with an institution of higher education, an education service
cooperative, or a non-profit organization to the Department of Career
Education for participation in the College and Career Coaches Program.

(c) A school district participating in the College and Career Coaches
Program is eligible for administrative support and supplemental grants if
funding is available.
(d) A school district may use national school lunch state categorical funds to support the school district's participation in the College and Career Coaches Program.

(e) Participation in the College and Career Coaches Program is contingent on the availability of funding.

6-1-603. Program administration.

(a) The Department of Career Education, in partnership with the Department of Education and the Department of Higher Education, shall develop and administer the College and Career Coaches Program.

(b) The Department of Career Education, the division manager for Arkansas Works, an administrative analyst and at least two (2) managers, shall manage the College and Career Coaches Program and:

(1) Provide guidelines and procedures for implementing the College and Career Coaches Program;

(2) Develop, coordinate, and offer training opportunities for college and career coaches;

(3) Monitor implementation of the College and Career Coaches Program by on-site technical assistance visits at least one (1) time every five (5) years;

(4) Develop guidelines and procedures for the application process;

(5) Accept or reject the annual application of a College and Career Coaches Program after:

   (A) Reviewing and evaluating evidence of the performance and success of a College and Career Coaches Program; and

   (B) Prioritizing approval and supplemental grant funding to College and Career Coaches Programs in Tier 3 and Tier 4 counties that are operated in partnership between a school district, an institution of higher education, an education service cooperative, or a non-profit organization; and

(6) Prepare annual reports that may be shared with members of the:

   (A) Governor’s Workforce Cabinet;

   (B) General Assembly; and

   (C) Governor’s office.
6-1-604. College and career coaches - Duties - Supervision.

(a) A college and career coach shall:

(1) Hold a baccalaureate degree; and

(2) Complete the required career development facilitator training within one (1) year of hiring.

(b) The college and career coaches shall be stationed at an institution of higher education, an education service cooperative, or a non-profit organization and shall provide services and support to students in middle schools and high schools located in Tier 3 and Tier 4 counties, including without limitation:

(1) Assisting the career orientation instructor with the development of college and career plans for students, beginning in grade seven (7);

(2) Assisting the school counselor with college and career planning resources and revising college and career plans for each student annually, beginning in grade nine (9);

(3) Offering high school students college and career planning services and activities that combine counseling on career options and experiential learning with academic planning to assist students with their college and career plans;

(4) Encouraging parental participation by scheduling annual parent sessions, beginning with students in grade seven (7), to assist parents and students in understanding the college and career planning process;

(5) Providing parents and high school students with information about career and technology education program opportunities available in Arkansas and the level of education and skill required to be successful in various career fields;

(6) Preparing high school students with information and preparation for financing a postsecondary education;

(7) Assisting schools in promoting quality career development for students in grades seven through twelve (7-12);

(8) Supporting students in middle school and high school in the exploration of career clusters and the selection of an area of academic focus with a cluster of study;
(9) Improving and promoting career development and college planning opportunities within school districts and communities;

(10) Attending continuing education programs on the certified career development facilitator curriculum sponsored by the state;

(11) Coordinating with school counselors and school administrators on career day events, career classes, career programming, college planning, and financial aid activities;

(12) Coordinating community resources and citizens representing diverse occupations to provide career development activities for parents and students; and

(13) Assisting with online-based career guidance and college planning systems.

c)(1) An institution of higher education, an education service cooperative, or a non-profit organization participating in the College and Career Coaches Program shall assign an on-site supervisor who shall:

(A) Supervise the College and Career Coaches Program locally; and

(B) Be a liaison between the institution of higher education, education service cooperative, or non-profit organization and the Department of Career Education.

(2) The Department of Career Education, through the division manager for Arkansas Works, and the on-site supervisor shall evaluate the performance of each college and career coach.

6-1-605. Program effectiveness and measurement.

(a)(1) The effectiveness of the College and Career Coaches Program shall be evaluated based on measurable benefits to students, including increases in:

(A) High school graduation rates;

(B) Completion of the Smart Core curriculum;

(C) College attendance rates;

(D) Remediation rates; and

(E) Applications for financial aid.

(2)(A) The Department of Education and the Department of Higher Education shall collect and report performance data to determine the effectiveness of the program.
(B) The data shall be collected for each county and school district served by the College and Career Coaches Program and shall be shared with the Department of Career Education on January 1 and August 1 each year.

(b) Annually, each college and career coach shall submit a report to the division manager for Arkansas Works describing his or her student contacts and the programs and services provided.

/s/Mayberry

APPROVED: 04/16/2013
SUMMARY OF HOUSE BILL 5

This summary of House Bill 5 was prepared by TASB Legal Services and provides an overview of the changes to public school curriculum, assessment, and accountability. House Bill 5 became effective on June 10, 2013 and applies beginning with the 2014-15 school year, except as indicated otherwise. For a complete reading of the legislation, please access House Bill 5 at Texas Legislature Online: www.capitol.state.tx.us/tlodocs/83R/billtext/pdf/HB00005F.pdf#navpanes=0.

Records Exchange: This bill adds a reference to the expanded requirement for personal graduation plans (PGPs), as described below, to the records that must be made available through the TREx/UT SPEEDE records exchange. (SECTION 1)

Science Lab Grants: To be eligible for a science laboratory grant, a school district must show that its existing labs are insufficient to provide for the distinguished level of achievement under the foundation high school program. (SECTION 2)

CTE Consortium: Effective immediately, the commissioner must consider options for the state to join a consortium of states to develop sequences of rigorous CTE courses in high-demand, high-wage careers. The CTE curriculum must comply with TEKS. (SECTION 3)

PGPs Optional for Charters: Charter schools must “consider” using PGPs with students. (SECTION 4)

Limit on Absences for Test Prep: Every school board must adopt and strictly enforce a policy limiting the removal of students from class for remediation or test preparation. Absent parental permission, a student may not be removed for this purpose if the removal would cause the student to miss more than 10 percent of the school days on which the class is offered. This applies with the 2013-14 school year. (SECTION 5)

90 Percent Rule: In addition to the existing provisions regarding loss of credit if a student attends class less than 90 percent of the days a class is offered, a student in any k-12 grade may not receive a “final grade.” This applies with the 2013-14 school year. (SECTIONS 6-7)

Algebra II: To be accredited, a district must make Algebra II available to each high school student. (SECTION 8)
CTE: With school board approval, a district may offer a course, apprenticeship, or other training for credit without SBOE approval if the district develops the program in partnership with an institution of higher education and local businesses, labor, and community leaders, and the program allows students to enter a regional career and technology training program, an institution of higher education without remediation, an apprenticeship, or an internship for an industry-recognized credential. Districts must report annually the number of students enrolled in these programs. In approving CTE courses, the SBOE must determine that at least half are cost effective for districts to offer. (SECTION 8)

By September 1, 2014, and expiring September 1, 2015, the SBOE must ensure at least six new advanced CTE or technology applications courses, including personal financial literacy and statistics, are approved to satisfy a fourth credit in math. (SECTION 9)

College Prep Courses: Each school district must partner with at least one institution of higher education to provide college prep courses in math and ELA. The courses must be designed for 12th graders whose EOC scores do not meet college readiness standards or whose coursework, college entrance exam score, or higher education assessment score for the TSI shows the student is not ready for entry-level college coursework. The course may be offered either on the high school campus or online. Appropriate faculty from both institutions must meet regularly to ensure alignment between the course and college readiness expectations. The commissioners of education and higher education may adopt rules for this subsection. Districts must notify all eligible students about the benefits of enrolling in a college prep course. A student who completes an ELA college prep course may use the credit toward the advanced ELA curriculum requirement for the foundation program. A student who completes a math college prep course may use the credit to satisfy an advanced math curriculum requirement after the student has completed Algebra I and geometry. College prep courses may be offered for dual credit at the discretion of the institution of higher education with which the school district partners. By the 2014-15 school year, each district, in consultation with the institution of higher education, must buy or develop course instructional materials, which must include technology resources to enhance effectiveness. In developing the materials, to the extent applicable, districts must draw from materials developed by TEA and THECB vertical teams. (SECTION 10)

15 Percent and Cumulative Score Repealed: This section repeals the requirement to create EOC exams, the requirement that EOC exam scores constitute 15 percent of a class grade, and the requirement to achieve a certain cumulative score on EOCs to graduate. This section applies beginning with the 2013-14 school year. (SECTION 10)

Funding for SSI: Effective immediately, annually by July 1, the commissioner must certify whether sufficient funds have been appropriated for the SSI and new requirement for accelerated instruction for students who do not perform successfully on a state assessment. The commissioner is to consider the cost of administering exams, the number of students who failed to perform satisfactorily, whether funds are sufficient to support at risk students, and
whether funds are sufficient for instructional materials. The commissioner may not consider FSP funds, except compensatory education funds. Without sufficient funds, the accelerated instruction requirements may not be implemented. (SECTION 11)

**Middle School PGPs:** Starting with the 2014-15 school year, a middle school or junior high school principal must have a school counselor or other individual develop a PGP for students who fail a state assessment or who are unlikely to graduate from high school within five years. (SECTIONS 12-13)

**High School PGPs:** TEA, in consultation with the TWC and the THECB, will provide information in English and Spanish that explains the advantages of the distinguished level of achievement and the endorsements and encourages students and parents to choose a corresponding PGP. Districts must publish the notice on their Web sites for students and parents in grades nine and above. If at least 20 students in a grade level speak primarily another language, the district must post the notice in that language as well. A high school principal must designate a school counselor or administrator to review PGP options, including the distinguished level and endorsements, for entering ninth graders and their parents. By the end of the school year, the student and parent must sign a PGP that identifies a course of study that promotes college and workforce readiness and career placement and advancement, and facilitates transition to post-secondary education. A district may not prevent a student and parent from choosing a PGP that pursues a distinguished level or an endorsement. A student may change his or her PGP; if so, the district must notify the student’s parent. (SECTION 14)

**Accelerated Instruction:** Effective immediately, each student who fails to perform successfully on an EOC exam for Algebra I, biology, English I & II, or U.S. history shall receive accelerated instruction in the relevant subject using appropriated funds. The instruction may require participation outside of normal school hours or normal school operations. (SECTION 15)

**SBOE Rulemaking:** The SBOE will determine by rule curriculum requirements for the foundation program that are consistent with law. [Note: The SBOE retains authority to set the foundation curriculum in the four core academic subjects and the enrichment curriculum for the foundation program.] Except as provided by Texas Education Code section 28.025 (see below), the SBOE may not designate a particular course or number of credits in the enrichment curriculum as requirements for the foundation program. (SECTION 16)

**Endorsements:** A district must ensure that on entering ninth grade each student indicates in writing an endorsement the student intends to earn. A district must permit a student to choose at any time to earn an endorsement other than the one the student previously indicated. A student may graduate under the foundation program without an endorsement if, after the student’s sophomore year, the student and parent are advised by a school counselor of the benefits of graduating with an endorsement and the parent provides written permission on a TEA form allowing the student to graduate without an endorsement. Prior language about permission for the minimum program is repealed. (SECTION 16)
Graduation Requirements: The SBOE must require for the foundation program that students complete:

- Four credits in ELA (English I-III and one advanced course)
- Three credits in math (Algebra I, geometry, and one advanced course)
- Three credits in science (biology, and either two advanced courses, or one advanced course and one integrated physics and chemistry course)
- Three credits in social studies (US history, .5 government, .5 economics, and world geography and/or world history)
- Two credits in the same foreign language, absent an exception
- One credit in fine arts
- One credit in PE, absent an exception
- Five electives

In adopting its rules, the SBOE must adopt a variety of options for advanced courses in ELA, math, and science. Each approved course should prepare students to enter the workforce successfully or post-secondary education without remediation.

The SBOE and THECB must adopt or revise existing rules to ensure that a student may complete the foundation program or endorsement by successfully completing the core curriculum of an institution of higher education. Notwithstanding any provision of the Education Code or local policy, a student who has completed the core curriculum is considered to have earned the distinguished level of achievement and is entitled to a high school diploma.

Formerly a pilot program, any district with the commissioner’s approval may allow a student to satisfy the fine arts credit through a community-based fine arts program on or off campus that covers the TEKS.

With the commissioner’s approval, a district may allow a student to complete the physical education (PE) requirement by participating in a private program on or off campus. An approved CTE course may be substituted as an academic elective (along with ELA, math, science, or social studies) for students excused from PE due to physical limitations.

SBOE rules must allow two credits in a computer programming language to substitute for the foreign language credits. SBOE rules must also allow:

- a student to substitute another appropriate course for the second foreign language credit if, based on SBOE rules, the student is unlikely to complete the second credit; and/or
• a student with a disability to substitute two academic electives that may not be used to complete any other credit requirement, at the direction of the student's ARDC or 504 committee. (SECTION 16)

**Distinguished Level of Achievement:** A student earns a distinguished level of achievement in the high school foundation program if the student completes:

• four credits in math, including geometry, Algebra I and II, and another advanced math course (or CTE course, as permitted by SBOE rule)
• four credits in science, including biology, and either two advanced courses, or one advanced course and one integrated physics and chemistry course (or CTE course, as permitted by SBOE rule)
• the remaining foundation program credits, and
• at least one endorsement (all of which must require two additional elective credits).

Credits required to complete an endorsement or the distinguished level may also count as elective credit for the foundation program. (SECTION 16)

**CTE Rules:** By SBOE rule, elective credits needed for the foundation program may be CTE courses necessary to earn an industry-recognized credential or associates degree. SBOE rules must also provide that students can earn foundation program credits with dual-enrollment courses. (SECTION 16)

**Endorsements:** The SBOE may adopt rules detailing courses needed to earn an endorsement, but the rules must provide multiple options and must allow students to enroll in more than one endorsement before their junior year. The endorsements are:

• STEM, including environmental science, technology, computer science, engineering, and advanced mathematics
• Business and industry, including database management, information technology, communications, accounting, finance, marketing, graphic design, architecture, construction, welding, logistics, automotive technology, agricultural science, and HVAC
• Public services, including health sciences, education, law enforcement, culinary arts, and hospitality
• Arts and humanities, including political science, world languages, cultural studies, literature, history, and fine arts (allowed, with parental permission, to substitute one fine arts credit for a science credit)
• Multidisciplinary studies, which allows a student to take any of these courses sufficient to complete the distinguished level
In adopting rules for endorsements, SBOE must communicate with education and business leaders and must require school districts to report to TEA which categories of endorsements the district offers. School districts must offer courses to allow students to complete at least one endorsement. If a school district offers only one endorsement, it must be multidisciplinary studies. (SECTION 16)

Transcript Acknowledgment: A student may earn a performance acknowledgement on his or her transcript for outstanding performance in a dual credit course, bilingualism, an IB or AP test, a college entrance exam, or for earning a nationally or internationally recognized business or industry certification or license.

Under SBOE rules, a school district must indicate the distinguished level of achievement, an endorsement, or a performance acknowledgement on a student’s diploma and transcript. PEIMS must indicate the number of students enrolled in the foundation program, pursuing the distinguished level, and pursuing an endorsement; the data must be disaggregated by race, ethnicity, socioeconomic status, gender, and special populations. (SECTION 16)

Transition Plan: The commissioner must adopt a transition plan from the current high school programs to the new program beginning with the 2014-15 school year. A student in ninth grade before 2014-15 (anyone in ninth in 2013-14 and before) may graduate under:

- The foundation program, if courses selected in 2014-15
- The minimum program, if participating before 2014-15
- The recommended program, if participating before 2014-15
- The advanced program, if participating before 2014-15

By commissioner’s rule, a 2013-14 high school senior who does not satisfy the curriculum requirements of their current program may graduate if the student satisfies the foundation program and any other graduation requirements. (SECTION 16)

A student in the pilot program for students demonstrating early college readiness based at a research university is considered to have earned the distinguished level of achievement and may apply to an institution of higher education for enrollment in an academic term beginning after the student completes the pilot program. (SECTION 17)

College Admission Information: Charter schools must provide the notices traditional school districts provide about automatic college admission. All must also provide notice of the curriculum requirements for financial aid. Now the required forms must be signed not only by students and parents, but also by the student’s counselor. (SECTION 18)
STEM: Technology applications is added to the list of applied STEM courses. SBOE rules must allow students to substitute approved STEM courses for math and science credits. A requirement that the math substitution not be allowed until after Algebra I, geometry, and Algebra II was eliminated. Science substitution may not be permitted until after biology (but not chemistry and physics). (SECTION 19)

Accelerated Instruction for EOCs: Effectively immediately, school districts must offer, at no cost to students, accelerated instruction before the next test administration to students who fail an EOC exam required for graduation. A district required to provide accelerated instruction shall separately budget sufficient funds, including compensatory education funds, for that purpose. Compensatory education funds may not be budgeted for any other purpose until the district sets a budget for accelerated instruction. Districts must evaluate the effectiveness of accelerated instruction and hold an annual public hearing on the results. (SECTION 20)

Age of At-Risk: Effective immediately, the definition of at-risk student has been amended to include students up to age 26. (SECTION 20)

State CTE Plan: The state CTE plan must require districts, to the extent possible, to allow CTE students to enroll in dual enrollment courses that lead to a degree, license, or certification as part of the program. The district will receive a subsidy for paying for a student’s career certification exam. Limitations on types of careers (high-demand, high-wage, high-skill) are eliminated, as is the student’s need to submit an application to the district for reimbursement, because the district will pay for the exam directly. The changes related to certification exams apply beginning with the 2013-14 school year. (SECTIONS 22-23)

IMA Funds: Instructional Materials Allotment (IMA) funds may be used to buy instructional materials for use in college prep courses. (SECTION 26)

Effective immediately, TEA will provide districts an estimate of IMA funds for the next fiscal year, and districts and charter schools will be able to pre-order materials up to 80 percent of the estimate. As funds become available, TEA will prioritize the payment of these pre-orders. TEA will inform publishers about any potential delay in payment and that payment is conditioned on available funds; publishers may decline to accept pre-orders. Texas Government Code chapter 2251 on state and local governmental purchasing does not apply to pre-orders. TEA may adopt rules. (SECTION 27)

TEA must adopt rules regarding the purchase of college prep instructional materials. IMA funds may be used to buy college prep materials. (SECTION 28)

Counseling about Postsecondary Requirements: Existing provisions requiring school counselors to counsel students and parents about the academic requirements and financial aid for higher education now refers to postsecondary education. Counseling about postsecondary education, which had been required during the first and last years of high school, is now...
required in every year of high school and must include the advantages of completing an endorsement and the distinguished level of achievement. These provisions also apply to charters. (SECTIONS 29-30)

NCLB: Effective the 2013-14 school year, the phrase, “except as required by federal law,” was added before an existing provision that allowed a student to avoid a state-mandated exam in the student’s grade and course if the student were enrolled in a course intended for students in a higher grade and the student would take the assessment or EOC exam associated with the course. (SECTION 31)

Assessment Options for Special Education: Effective the 2013-14 school year, alternative assessments developed for special education students for whom standard assessments, even with accommodations, would be inappropriate, will now include assessments approved by the commissioner to measure growth. The assessments must, to the extent allowed by federal law, give districts options for student assessment. TEA, along with appropriate interested persons, must redevelop assessments for significantly cognitively disabled students for administration no later than 2014-15. An assessment under this section may not require a teacher to prepare tasks or materials for a student who will take the alternative test. (SECTION 31)

Five EOCs: Effective the 2013-14 school year, Texas Education Code section 39.023 regarding state-mandated assessments is amended to eliminate EOC exams for Algebra II, geometry, chemistry, physics, English III, world geography, and world history. There are only five required EOCs:

- Algebra I
- Biology
- English I (including reading and writing in a single exam)
- English II (including reading and writing in a single exam)
- U.S. history

Effective the 2013-14 school year, the “15 percent rule,” which required EOC exam scores to count as 15 percent of students’ final course grades, and related language regarding the calculation of retakes, is repealed. (SECTION 31)

Answers from Prior EOCs: Effective the 2013-14 school year, for 2012-13 exams, pursuant to TEA rules, the agency shall release the answer keys for each required exam, except for those withheld for the purpose of retakes, after the final administration of each exam. This subsection expires on December 31, 2013.

For the 2013-14 school year, pursuant to TEA rules, the agency shall release the answer keys for each required exam (other than assessments in grades 3-8), except for those withheld for the purpose of retakes and those for courses for which 2012-13 answer keys were released, after the final administration of each exam. This subsection expires on December 31, 2014.
For 2013-14 exams, pursuant to TEA rules, the agency shall release the answer keys for each required exam, except for those withheld for the purpose of retakes, after the final administration of each exam. This subsection expires on December 31, 2014.

During 2014-15 and 2015-16, TEA shall release answer keys to required exams after the final administration of each exam (except for field test questions).

Effective the 2013-14 school year, TEA must report assessment results within 21 days of administration, and the school district must disclose the results of assessments to teachers of the students they taught in the relevant courses. (SECTION 31)

**No EOC in Class Rank:** Effective with the 2013-14 school year, a student’s performance on an EOC exam may not be used to determine class rank for any purpose, including Top Ten Percent. A general academic teaching institution may consider EOC scores, but may not use EOC scores as a sole criterion in student admissions. (SECTION 32)

**Optional English III and Algebra II:** Beginning with the 2015-16 school year, TEA must develop postsecondary readiness assessments for Algebra II and English III, which districts may administer at their option. The assessments must test essential knowledge and skills, measure growth, measure postsecondary readiness, and be validated by national postsecondary education experts. The assessments cannot be given before the second full week of May. Participating districts must administer the exams to all students enrolled in the courses and report the results to TEA, which will in turn report to state officials. Results of these exams may not be used:

- by TEA for accountability
- by a school district for teacher evaluation or students’ grades or class rank; or
- by an institution of higher education for admissions or a TEXAS grant.

Participating districts may not administer benchmark tests in anticipation of these exams. Districts that administer these exams will be acknowledged by TEA. (SECTION 34)

**EOC Passing Standards:** Beginning with the 2013-14 school year, the requirements that students achieve a minimum score on each EOC and a cumulative score in each academic area in order to graduate are eliminated. TEA must assign a scale score on each required EOC and covert the score to an equivalent score on a 100-point scale. Students must have satisfactory performance on the five EOCs in order to graduate.

A student in a college prep course who satisfies the TSI college readiness benchmarks on an exam administered by the THECB at the end of the college prep course satisfies the EOC requirement for that course. By October 1, 2013 the commissioner must adopt rules to determine a method by which performance on an AP, IB, ACT, SAT, PSAT, ACT-Plan, or other national norm-referenced exam used by higher education to award credit will be used to satisfy
EOC requirements. Students who take the PSAT or ACT-Plan and do not satisfy the EOC requirement must take the EOC. Students who take the remaining exams may retake the national test or take the EOC. (SECTIONS 35-36, 80)

A special education student's ARDC will decide whether the student must pass the EOCs in order to graduate. A student who does not perform satisfactorily on an EOC may retake the exam, but is not required to retake the course. If a district determines that rising senior is unlikely to pass an EOC, the district shall require the student to enroll in the corresponding college prep course, if available; the college prep course assessment can be used to satisfy the EOC requirement. (SECTION 35-36)

These sections apply only to students who entered ninth grade in 2011-12 or later. Students who entered ninth grade in or after 2011-12, but before 2013-14, may be administered only the tests as these sections are amended, in accordance with a transition plan to be determined by the commissioner. (SECTION 79)

Limit on Benchmarks: Beginning with the 2013-14 school year, a school district may not administer to any student more than two benchmark assessments to prepare for a corresponding state-mandated assessment. This limitation does not apply to college preparation assessments, including the PSAT, ACT-Plan, SAT, ACT, AP, IB, or independent classroom exams designed or adopted by the classroom teacher. A parent of a special needs student may, in accordance with commissioner rules, request additional benchmarks be administered to the parent's child. (SECTION 37)

Students Only Temporarily in U.S.: Beginning with the 2013-14 school year, and regardless of the date on which a student originally enrolled in a U.S. school, unless a student is enrolled in school in the U.S. for at least 60 consecutive days during a year, the student may not be considered enrolled in a U.S. school for the purpose of determining a number of years for purposes of eligibility for an alternative assessment for LEP. (SECTION 38, 81)

Minimize Disruption of Class: Effective immediately, in establishing and implementing test administration procedures, the commissioner and school districts shall ensure the procedures are designed to minimize disruptions to school operations and the classroom environment. (SECTION 39)

Conflict of Interest with Assessment Vendors: The commissioner may not appoint a person who is employed or retained by an assessment instrument vendor to a committee or panel that advises TEA on accountability or the content or administration of an assessment instrument. Starting September 1, 2013, it is a Class B misdemeanor for an agent of an entity contracted to develop or implement state assessments to make or authorize a political contribution or take part, directly or indirectly, in the campaign of a candidate for SBOE. An agent of such an entity also commits an offense if the person serves as a member of a formal or informal advisory

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committee by the commissioner, TEA, or SBOE regarding state assessment and accountability. (SECTIONS 40-41) If on September 1, 2013, a person is serving on a committee who is no longer eligible due to this section, the person’s position will be deemed vacant and may be filled as provided by law. (SECTION 82)

**Indicators of Student Achievement:** Effective with the 2013-14 school year, the indicators of student achievement for accountability purposes, found in Texas Education Code section 39.053, now include:

- Percentage of students who complete the distinguished level of achievement
- Percentage of students who complete an endorsement
- At least three additional indicators, to include *either* the percentage of students who meet TSI, as defined by the THECB, on an assessment instrument in reading, writing, or math or the number of students who earn: at least 12 hours of postsecondary credit for high school graduation credit; at least 30 hours of postsecondary credit; an associate’s degree; or an industry certification

An indicator of student achievement cannot negatively affect the commissioner’s review of a district or campus if the district or campus is already achieving at the highest level for that indicator. The commissioner must determine by rule how a student’s performance may be included in a district or campus performance rating if the student:

- satisfies TSI on an assessment designated by the THECB; or
- performs satisfactorily on an EOC retake, even though the time has passed for including the retake as a passing score. (SECTION 42)

**Dropout Calculation:** Also effective with the 2013-14 school year, a student who was previously reported as a dropout but who reenrolls and drops out again is not included in the district’s dropout calculation, regardless of the number of times this occurs. (SECTION 42)

**Performance Ratings:** Beginning with the 2016-17 school year, the commissioner must assign each school district a performance rating of A, B, C, D, or F, setting rules to determine the criteria for each rating. A-C will reflect acceptable performance, and D-F will reflect unacceptable performance. The commissioner will assign each campus a rating of exemplary, recognized, acceptable, or unacceptable. A district may not receive an “A” if it has any unacceptable campus. Notice of an unacceptable rating will still be provided to districts by June 15; all ratings will be public by August 8. (SECTION 44)

Effective in 2013-14, in evaluating campus and charter school performance, the commissioner shall evaluate against the student achievement indicators set in Texas Education Code section 39.053, except, to the greatest extent possible, when an indicator to measure growth would negatively affect the rating of a campus achieving at the highest level. (SECTION 45)
New Community and Student Engagement Rating: Beginning in 2013-14, by August 8 annually, each district must evaluate the district and each of its campuses in community and student engagement and assign the district and each campus a rating of exemplary, recognized, acceptable, or unacceptable overall and for each factor below based on criteria set by a local committee:

- Fine arts
- Wellness and PE
- Community and parent involvement, such as opportunities for parents to assist students in preparing for state assessments, tutoring programs, and opportunities for student community service
- 21st Century Workforce Development
- Second language acquisition
- Digital learning environment
- Dropout prevention strategies
- G/T programs
- The record of the district and each campus regarding compliance with statutory reporting and policy requirements

The ratings must be reported to TEA and the public as provided by commissioner rule. (SECTION 46)

On-Site TEA Investigations: Effective immediately, if the commissioner orders an on-site investigation of a school district program for which the district receives federal funds, and the district takes action on the investigators’ recommendations, the district shall make a reasonable effort to seek assistance from a third party in developing an action plan to improve district performance using techniques that are goal oriented and research based. (SECTION 47)

Grounds for special accreditation investigations are adjusted to permit investigations: when excessive numbers of students fail to complete advanced courses, including Algebra I; when a disproportionate number of students in a particular demographic group are completing a particular endorsement; and when an excessive number of students is graduating with a particular endorsement. (SECTION 48)

FIRST Rating System: The financial accountability rating system will be expanded to include processes for anticipating future financial solvency for each district including analysis of district revenues and expenses for preceding years. Initial rules to accomplish this must be adopted by March 1, 2015, with the changes effective for the 2014-15 school year. The commissioner must set up a scoring matrix with a point system and evaluate the indicators at least once every three years. The commissioner, in consultation with the comptroller, must set criteria for financial performance ratings, and each district will be assigned a financial performance rating. A district
will receive the lowest rating if the district fails to meet a critical criterion (as determined by the commissioner) or fails to meet a category of criteria suggesting financial distress. The commissioner will first assign a preliminary rating and allow the district to provide further data on any unsatisfactory indicator. Ratings will be publicly available annually by August 8. Applies to charter schools. (SECTION 49)

If the financial accountability indicators or other factors project a district shortfall in the next three years, TEA will provide the district interim financial reports to evaluate the district’s budget status. In the past, the district provided reports to TEA. TEA may ask the district for information relevant to these reports, and if the district does not comply, TEA may require the district to acquire professional services for financial assistance or training. This provision applies to charter schools. (SECTION 50)

A district assigned the lowest financial rating shall submit a corrective action plan to the commissioner to identify financial weaknesses and strategies for improvement. If a district fails to submit a plan, the commissioner may impose sanctions. This provision applies to charter schools. (SECTION 51)

**Distinction Designations:** Beginning in 2013-14, distinction designations for outstanding performance must be directly referenced in connection with a district or campus performance rating and made available publicly together with the performance ratings. (SECTION 53)

Beginning in 2013-14, distinction designations will go to districts and campuses for outstanding performance in gaining postsecondary readiness. New criteria for distinction designations will include:

- Percentage of students who earn a nationally or internationally recognized industry certification
- Percentage of students who complete a coherent sequence of CTE courses
- Percentage of students who complete dual credit or postsecondary courses
- Percentage of students who achieve college readiness benchmarks on the PSAT, SAT, ACT, or ACT-Plan
- Percentage of students who received a score on an AP or IB exam that would lead to college credit. (SECTION 54)

Beginning in 2013-14, distinction designations for fine arts, PE, 21st Century Workforce Development, and second language acquisition are eliminated. (SECTION 55)

Additional performance reports are amended in light of changes to the high school curriculum to now require reporting of the percentage of students graduating under the foundation program, the distinguished level of achievement, and each endorsement. For each campus the data will be disaggregated by subpopulations. (SECTION 57)
**Texas School Accountability Dashboard:** Effective immediately, TEA must create a Web site known as the Texas School Accountability Dashboard for the public to access district and campus accountability information. For the dashboard, the commissioner will adopt a performance index in:

- Student achievement
- Student progress
- Closing performance gaps
- Postsecondary readiness

The dashboard must allow for comparisons among districts’ performance information disaggregated by subpopulations and student populations, including number of students, percentage of students who are LEP, unschooled asylees or refugees, educationally disadvantaged, or disabled, with comparison of performance information by subject. (SECTION 58)

**TEA Annual Report:** TEA’s annual report to state officials must now include an evaluation of the availability of endorsements, including the endorsements for which districts offer for all required courses and districts’ economic, geographic, and demographic information. (SECTION 59)

**Accountability Ratings Online:** Beginning in 2013-14, not later than October 1 annually, TEA must post on its Web site:

- Each letter rating and distinction designation awarded to a district, campus, or charter school
- The performance rating assigned to each district, campus, or charter school
- The financial accountability rating assigned to each district or charter school (SECTION 60)

**TSI:** Beginning with the 2015-16 school year, a student who has met the standard for college readiness set by the TEA/THECB vertical teams on the state assessments for Algebra II and English III will be exempt for the relevant subjects from the TSI, which requires entering college freshmen to undergo assessment and receive remediation to the extent they are not prepared for freshman-level coursework. (SECTION 62)

Beginning with 2013-14, a student who successfully completes a college prep course is exempt from TSI in the relevant subject at the institution of higher education that partnered to offer the course, for a period of time to be determined by the commissioner of higher education. By rule, the commissioner of higher education may determine the extent to which the exemption applies at other institutions of higher education. (SECTION 63)
**Top Ten Percent and College Admissions:** Starting with the 2014-15 school year, the Top Ten Percent rule is modified in light of changes to the high school curriculum. Unless an exception applies, a student must graduate at the distinguished level of achievement to be eligible for automatic admission through the Top Ten Percent. The commissioners of education and higher education will jointly adopt rules to allow students still graduating under the recommended or advanced high school programs to remain eligible for automatic admission. (SECTION 64)

Starting with the 2014-15 school year, a student who is not eligible for automatic admission may apply to any general academic teaching institution if the student completed the foundation program or achieved a certain score on the SAT or ACT. The commissioners of education and higher education will jointly adopt rules for students still graduating under the minimum, recommended, or advanced high school programs so that the admission requirements for these students are not more stringent than the requirements for students graduating in the foundation program. (SECTION 65)

The commissioners of education and higher education will jointly adopt rules to clarify eligibility requirements in instances when a student’s eligibility for participation in any student financial aid program depends on graduating under the prior recommended or advanced high school programs. (SECTION 67)

Eligibility for a TEXAS grant will be based on completing the foundation program rather than the recommended program, along with other conforming changes. A student who finishes the recommended or advanced program is considered to have met the revised curriculum requirements. (SECTION 68)

**Career Prep:** STEM courses are updated to include technology applications and refer to the foundation, rather than recommended, high school program. (SECTION 69)

To be eligible for an engineering scholarship, a student must graduate under the foundation, rather than recommended, high school program. (SECTION 70)

Tech prep sections are updated to refer to the foundation, rather than recommended high school program. (SECTIONS 71-72)

Sections on grants for CTE courses developed for high-demand occupations are updated to refer to the foundation, rather than recommended high school program. (SECTIONS 73-74)

The Texas Academy of Mathematics and Science allows students to earn high school credit while enrolled in higher education. The high school credits will allow students to complete the foundation program and appropriate endorsements. The phrase *computational* thinking was added the skills students will learn. (SECTION 75)

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The Texas Academy of International Studies allows students to earn high school credit while enrolled in higher education. The high school credits will allow students to complete the foundation program and appropriate endorsements. (SECTION 76)

**Dual Enrollment:** Beginning in 2013-14, for a community college offering courses for dual credit under an agreement with a school district outside of the college’s service area, a high school student’s enrollment in the community college’s courses is limited to not more than three courses per year. (SECTION 77)

**Repealed Sections:** Effective September 1, 2013, this bill repeals:

- For the CTE subsidy for the cost of taking industry licensure exams, the sections directing TEA to have guidelines for determining financial need, rulemaking authority, and the requirement for TEA, THECB, and TWC to determine the covered occupations.

- Expired content related to developing the English III and Algebra II exams in collaboration with the THECB; however, the section defining college readiness as the attainment of English and math skills needed to succeed without remediation at a postsecondary institution remains.

- Performance standards for English III and Algebra II.

- Mandate that TEA collect data for 2009-11 and beyond to correlate EOC performance with postsecondary readiness.

- Requirement to pass English III and Algebra II EOCs to graduate and to achieve the college readiness standard on the exams for the advanced graduation program.

- Restriction on community colleges to offer courses only to public school students within their service area unless the students’ local community college did not offer the course.

Effective September 1, 2014, this bill repeals:

- The general statement that local school districts are encouraged to exceed the minimum curriculum.

- The statement encouraging schools to do PGPs for all ninth graders.

- Sections related to the minimum graduation program (parental notice and consent, option to return to recommended program, and requirement to state on transcript if a student could not complete the recommended or distinguished program due to factors beyond the student’s control).

- Section calling for an electronic financial alert system.

- Section related to requirements for a district with a projected shortfall under the now-replaced electronic alert system. (SECTION 78)
TEA, in collaboration with THECB and TWC, must use an external evaluator from an ESC to evaluate the changes to high school curriculum, with an initial report to state officials by December 1, 2015, and a final report by December 1, 2017. (SECTION 83)
AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 4, Part 7 and Title 49, Chapter 4, Part 9, relative to postsecondary financial assistance.

WHEREAS, Governor Haslam has set the goal of making Tennessee the number one location in the Southeast for high-quality jobs; and

WHEREAS, high-quality jobs require a workforce that is equipped with the knowledge and skills provided through postsecondary education; and

WHEREAS, the Governor and members of the General Assembly hear continually from Tennessee employers that the demand for skilled workers exceeds the supply; and

WHEREAS, Tennessee lags behind the national average in residents with higher education degrees, ranking forty-third in the percentage of adults with a two-year degree or higher; and

WHEREAS, without intervention, the current higher education attainment level of thirty-two percent (32%) among Tennesseans is projected to increase to only thirty-nine percent (39%) by 2025; and

WHEREAS, recognizing these realities, Governor Haslam launched the Drive to 55 initiative to increase higher education attainment among Tennesseans to fifty-five percent (55%) by 2025, which will require the awarding of four hundred ninety-four thousand (494,000) additional postsecondary credentials; and

WHEREAS, these credentials need to be fully aligned with emerging workforce demands, which will require collaboration across education and workforce agencies at the state, regional, and local level; and

WHEREAS, the Drive to 55 initiative is comprised of strategies to address both traditional and nontraditional students; and

WHEREAS, we cannot reach fifty-five percent (55%) without engaging our adult population that has some college but no degree; and

WHEREAS, reaching this goal will require focused effort and coordination across all systems and institutions of Tennessee higher education; and

WHEREAS, a key to the future economic success of Tennessee is reaching fifty-five percent (55%) higher education attainment by 2025 in order to keep up with projections of the percent of Tennessee jobs that will require a postsecondary credential or degree; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-4-708, is amended by deleting the section in its entirety and by substituting instead the following language:

(a) This section shall be known and may be cited as the "Tennessee Promise Scholarship Act of 2014".

(b) As used in this section:
(1) "Continuous enrollment" has the same meaning as defined in § 49-4-902; except that a student enrolled in a Tennessee college of applied technology shall be enrolled in accordance with the institution's requirements;

(2) "Eligible high school" has the same meaning as defined in § 49-4-902;

(3) "Eligible postsecondary institution" means a postsecondary institution that was eligible for the Tennessee education lottery scholarship, as defined in § 49-4-902, on July 1, 2013, and remains eligible thereafter;

(4) "Full-time student" means a student who is enrolled in a minimum of twelve (12) semester hours, or its equivalent at a Tennessee college of applied technology;

(5) "Gift aid" has the same meaning as defined in § 49-4-902;

(6) "Home school student" means a student who completed high school in a Tennessee home school associated with a church-related school as defined by § 49-50-801, or an independent home school student whose parent or guardian has given notice to the local director of a Tennessee school district under § 49-6-3050(b)(1) of intent to conduct a home school;

(7) "Resident" means a student as defined by regulations promulgated by the board of regents under § 49-8-104; and

(8) "TSAC" means the Tennessee student assistance corporation.

(c) TSAC shall administer the Tennessee Promise scholarship program for Tennessee residents seeking an associate's degree, certificate or diploma from an eligible postsecondary institution under the following terms and conditions:

(1) To be eligible for the scholarship a student shall be admitted to, and enrolled full-time in, an eligible postsecondary program in the fall term following graduation from an eligible high school, or completion of high school as a Tennessee home school student, or obtaining a GED® or HiSET® diploma; provided, that the student obtains the GED® or HiSET® diploma prior to the student reaching nineteen (19) years of age. Exceptions to initial enrollment may be made for extenuating circumstances as provided in rules and regulations promulgated by TSAC;

(2) Students applying for the scholarship shall complete the Tennessee Promise scholarship application for their initial year of enrollment in accordance with the schedule determined by TSAC. Students shall complete the free application for federal student aid (FAFSA) each academic year in which they seek to receive the Tennessee Promise scholarship;

(3) To continue to receive a Tennessee Promise scholarship at an eligible two-year or four-year postsecondary institution, a student shall maintain a minimum cumulative grade point average of 2.0 as set forth in the rules promulgated by TSAC. To continue to receive a Tennessee Promise scholarship at a Tennessee college of applied technology, a student shall maintain satisfactory academic progress as determined by the institution;

(4) Scholarship recipients shall participate in mentoring and community service programs under the rules and regulations promulgated by TSAC. TSAC shall develop the selection and renewal criteria for students and shall have the authority to work with outside organizations to develop the most effective means for delivering the scholarships. In selecting outside organizations for participation in the Tennessee Promise scholarship program, TSAC shall give preference to locally established entities that meet designated standards specified by the program's promulgated rules and regulations;

(5) A Tennessee Promise scholarship at a Tennessee public two-year postsecondary institution or Tennessee college of applied technology shall be the cost of tuition and mandatory fees at the eligible postsecondary institution attended less all other gift aid, as defined in § 49-4-902. Gift aid shall be credited first to the student's tuition and mandatory fees;

(6) Notwithstanding subdivision (c)(5), the amount of the Tennessee Promise scholarship at an eligible four-year public postsecondary institution or an eligible private institution shall be the average cost of tuition and mandatory fees at the public two-year postsecondary institutions less all other gift aid, as defined in § 49-4-902.
Gift aid shall be credited first to the average tuition and mandatory fees as described in subdivision (c)(5);

(7) A Tennessee Promise scholarship student who has an approved medical or personal leave of absence from an eligible postsecondary institution may continue to receive the scholarship upon resuming the student's education at an eligible postsecondary institution so long as the student continues to meet all applicable eligibility requirements. The sum of all approved leaves of absence shall not exceed six (6) months;

(8) A student shall be eligible for the Tennessee Promise scholarship until the occurrence of the first of the following events:

(A) The student has earned a diploma or associate's degree; or

(B) The sum of the number of years the student attended a postsecondary institution, exclusive of approved leaves of absence, equals two and one-half (2½) years from the date of the student's initial enrollment at an eligible postsecondary institution; and

(9) Except for a medical or personal leave of absence, as approved by an eligible postsecondary institution, a Tennessee Promise scholarship student shall maintain continuous enrollment at an eligible postsecondary institution.

(d) The Tennessee Promise scholarship endowment fund is created. The Tennessee Promise scholarship endowment fund shall be established and funded under the following terms and conditions:

(1) This fund shall be an irrevocable trust that the state treasurer shall administer. The attorney general and reporter shall approve the terms of the trust instrument. The trust shall consist of the Tennessee Promise endowment account and the Tennessee Promise scholarship special reserve account;

(2) The trustees of the trust shall be as follows:

(A) The governor, or a member of the governor's cabinet or a cabinet-level staff member who is designated by the governor;

(B) The state treasurer;

(C) The comptroller of the treasury;

(D) The secretary of state;

(E) The commissioner of finance and administration;

(F) The chair of the finance, ways and means committee of the house of representatives;

(G) The chair of the finance, ways and means committee of the senate; and

(H) One (1) member appointed by the governor who shall serve at the pleasure of the governor;

(3) The state treasurer shall serve as the chair of the trustees and shall preside over all meetings and proceedings of the trustees;

(4) The trust may invest in any security or investment in which the Tennessee consolidated retirement system is permitted to invest; provided, that investments by the trust shall be governed by the investment policies and guidelines adopted by the trustees of the trust in accordance with the provisions of this part. The state treasurer shall be responsible for the investment and reinvestment of trust funds in accordance with the policies and guidelines established by the trustees;

(5) The trust shall be initially funded in fiscal year 2014-2015 by a deposit of:

(A) The program-generated revenues of TSAC invested as a part of the chairs of excellence endowment fund established by § 49-7-501 and
pursuant to Chapter 98 of the Public Acts of 2013, and any income earned from the investment of such funds; and

(B) The balance of the lottery for education account established in accordance with § 4-51-111(b), but excluding the general shortfall reserve subaccount provided in § 4-51-111(b)(3) and the sum of ten million dollars ($10,000,000);

(6) The initial deposit shall constitute the principal of the trust. Subsequent transfers to the trust and trust income, as defined in this section, shall not increase, or constitute an addition to, the principal of the trust, but shall be placed in the Tennessee Promise scholarship special reserve account provided in subdivision (d)(9);

(7) Beginning in fiscal year 2014-2015, all funds in the lottery for education account, established in § 4-51-111(b), in excess of sum of the general shortfall reserve subaccount provided in § 4-51-111(b)(3) and ten million dollars ($10,000,000), shall be transferred on at least an annual basis to the Tennessee Promise scholarship special reserve account, or more frequently as determined by the state treasurer and the commissioner of finance and administration. Such transfers shall occur after all required expenditures have been made for Tennessee education lottery scholarship programs, Tennessee student assistance awards, and administrative expenses, and after any required deposits into the general shortfall reserve subaccount have been made. The Tennessee Promise scholarship special reserve account shall be a part of the trust, and the funds in the special reserve account may be commingled with, co-invested with, and invested or reinvested with the other assets of the trust;

(8) The principal of the trust shall not be expended for any purpose. Trust income shall be expended only to fund the Tennessee Promise scholarship program and pay expenses incurred in administering and investing the trust assets. Trust income means the income from the trust's investment portfolio from whatever source derived, including, but not limited to, interest, dividends, and realized capital gains or losses;

(9) Any trust income not allocated or distributed to the beneficiaries of the Tennessee Promise scholarship program shall be maintained in a Tennessee Promise scholarship special reserve account and may be subject to future allocations and distributions in accordance with this section;

(10) Any funds transferred for the Tennessee Promise scholarship program after the initial deposit in subdivision (d)(5), including matching funds or future appropriations made by the general assembly, shall be placed in the Tennessee Promise scholarship special reserve account of the trust. Unexpended funds remaining in the trust in any fiscal year, whether principal or funds in the Tennessee Promise scholarship special reserve account shall not revert to the general fund;

(11) The funds transferred to this trust may be commingled with, co-invested with, and invested or reinvested with other assets transferred to the trust. All or a portion of the trust may be invested, reinvested and co-invested with other funds, not a part of the trust, which are held by the state treasurer, including, but not limited to, assets of the Tennessee consolidated retirement system and the state pooled investment fund established pursuant to title 9, chapter 4, part 6. The state treasurer shall account for such trust funds in one (1) or more separate accounts in accordance with this section and other law;

(12) Notwithstanding any provision of the law to the contrary, all funds placed in the Tennessee Promise scholarship special reserve account shall be available for allocation and distribution as authorized herein only to the extent that funds are available in the Tennessee Promise scholarship special reserve account, and the state shall not be liable for any amount in excess of such sum. All requests for withdrawals for the payment of program funding that are presented to the state treasurer shall be used only to fund the Tennessee Promise scholarship program. Such requests for withdrawals shall not be commingled with requests for withdrawals presented to the state treasurer for any other purpose, and the individual or entity requesting the withdrawal of funds shall attest to the same upon presentation of the request for withdrawal to the state treasurer; and
(13) The provisions of the irrevocable trust are provided in this subsection (d), but the trust shall not include the provisions contained in other subsections of this act, which shall be subject to amendment by legislative enactment.

(e) TSAC and the Tennessee higher education commission shall provide assistance to the general assembly by researching and analyzing data concerning the scholarship program created under this part, including, but not limited to, student success and scholarship retention. TSAC shall report its findings annually to the education committee of the senate and the education committee of the house of representatives by March 15.

(f) The comptroller of the treasury, through the comptroller’s office of research and education accountability, shall review and study the Tennessee Promise scholarship program to determine the effectiveness of the program. The study shall be done in the third year of the program and every four (4) years thereafter. The comptroller of the treasury shall report the findings and conclusions of the study to the speakers of the senate and house of representatives and the members of the education committees of the senate and the house of representatives.

(g) The TSAC board of directors shall appoint a special advisory committee comprised of representatives from existing college access programs in the state. The committee shall take steps necessary to eliminate barriers to access to scholarships and hold mentoring organizations to the highest standard in serving the students receiving the scholarship. Members of the committee shall serve without compensation.

SECTION 2. TSAC is authorized to promulgate rules to effectuate the purposes of Section 1 of this act, including the determination of student eligibility and for the distribution of funds appropriated for scholarships under the program. Such rules shall include adjustments to scholarship amounts and student eligibility in the event that net proceeds from the trust account established under this section are insufficient to fund fully the Tennessee Promise scholarship program. All such rules shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. Tennessee Code Annotated, Section 49-4-902, is amended by deleting subdivision (24) in its entirety.

SECTION 4. Tennessee Code Annotated, Section 49-4-902, is amended by adding the following language as a new, appropriately designated subdivision:

(1) "Full-time equivalent semester" means any semester in which a student is enrolled full-time and receives a Tennessee HOPE scholarship. A semester in which a part-time student attempts six (6), seven (7) or eight (8) semester hours and receives a Tennessee HOPE scholarship shall be counted as one-half (½) of a full-time equivalent semester. A semester in which a part-time student attempts nine (9), ten (10), or eleven (11) semester hours and receives a Tennessee HOPE scholarship shall be counted as three-fourths (¾) of a full-time equivalent semester;

SECTION 5. Tennessee Code Annotated, Section 49-4-913, is amended by deleting subsections (b), (c), and (d) in their entireties and by substituting instead the following language:

(b) Notwithstanding subsection (a), and except as set forth in subsections (c) and (d) and §§ 49-4-919, 49-4-920 and 49-4-941, a student who first receives a Tennessee HOPE scholarship in the fall semester of 2009 or later, may receive the scholarship until the first of the following events occurs:

(1) The student has earned a baccalaureate degree;

(2) Five (5) years have passed from the date of the student’s initial enrollment at any postsecondary institution; or

(3) The student has attempted a total of one hundred twenty (120) semester hours or has received the Tennessee HOPE scholarship for eight (8) full-time equivalent semesters at any postsecondary institution, whichever occurs later.

(c) A student who first receives a Tennessee HOPE scholarship in the fall semester of 2009 or later and who is enrolled in an undergraduate degree program required to be more than one hundred twenty (120) semester hours in length may receive a Tennessee HOPE scholarship until the first of the following events occurs:

(1) The student has earned a baccalaureate degree;
(2) Five (5) years have passed from the date of the student's initial enrollment at any postsecondary institution; or

(3) The latter of the following events has occurred:

(A) The student has attempted the number of semester hours required to earn the undergraduate degree or a total of one hundred thirty-six (136) semester hours at any postsecondary institution, whichever is less; or

(B) The student has completed eight (8) full-time equivalent semesters.

(d) Notwithstanding subsections (b) and (c), the five-year, total full-time equivalent semester, and total semester hour limitations for a student who first receives a Tennessee HOPE scholarship for nontraditional students pursuant to § 49-4-931 beginning with the fall semester of 2009 or thereafter, shall be based on the sum of years, total full-time equivalent semesters, or total semester hours attempted while receiving the Tennessee HOPE scholarship or the Tennessee HOPE scholarship for nontraditional students.

SECTION 6. Tennessee Code Annotated, Section 49-4-914, is amended by deleting the section in its entirety and by substituting instead the following language:

(a) Subject to the amounts appropriated by the general assembly and any provision of law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery, the amount of a Tennessee HOPE scholarship and Tennessee HOPE scholarship for nontraditional students awarded to a student attending an eligible four-year postsecondary institution shall be one thousand seven hundred fifty dollars ($1,750) for full-time attendance for each semester. This award amount shall apply to each entering freshman in the fall term of 2015, and thereafter, and shall continue through the fall of the fifth succeeding academic year. The determination of a student's status as a freshman or sophomore shall be made by the postsecondary institution attended.

(b) Subject to the amounts appropriated by the general assembly and any provision of law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery, a Tennessee HOPE scholarship and Tennessee HOPE scholarship for nontraditional students awarded to a student attending an eligible two-year postsecondary institution that provides on-campus housing shall be one thousand five hundred dollars ($1,500) per semester beginning in the student's junior year, as determined by the postsecondary institution attended, and shall continue until the student is no longer eligible for a Tennessee HOPE scholarship under § 49-4-913(b) and (c).

(c) Subject to the amounts appropriated by the general assembly and any provision of law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery, a Tennessee HOPE scholarship and Tennessee HOPE scholarship for nontraditional students awarded to a student attending an eligible two-year postsecondary institution shall be one thousand five hundred dollars ($1,500) for full-time attendance for each semester. This award amount shall apply to the initial entering freshman class beginning in the fall term of 2015 and to each entering class thereafter.

(d) A student who first received the Tennessee HOPE scholarship, Tennessee HOPE access grant or Tennessee HOPE scholarship for nontraditional students in the fall semester of 2009 or later may receive such scholarship or grant in the summer semester of any academic year as defined in § 49-4-902(2)(A) in addition to the receipt of the scholarship or grant in the fall and spring semesters of any academic year.

(e) The amount of a Tennessee HOPE scholarship awarded to a student attending an eligible two-year postsecondary institution that provides on-campus housing shall be the same as the amount provided in subsection (c).

(f) Subject to the amounts appropriated by the general assembly and any law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery, the amount of a Tennessee HOPE scholarship and Tennessee HOPE scholarship for nontraditional students, who enroll in an eligible postsecondary institution prior to the fall term of 2015, shall be determined in accordance with § 4-51-111 and shall be set in the general appropriations act.

SECTION 7. Tennessee Code Annotated, Section 49-4-919, is amended by adding the following language as new subsection (b) and by redesignating the remaining subsections accordingly:
(b) Notwithstanding subsection (a), a student who first receives a Tennessee HOPE scholarship in the fall semester of 2009 or later, may receive the scholarship until the first of the terminating events described in § 49-4-913(b) and (c).

SECTION 8. Tennessee Code Annotated, Section 49-4-920, is amended by deleting subsection (g) and by substituting instead the following language:

(g) Notwithstanding subsection (f), a student who first receives a Tennessee HOPE scholarship after having received a Tennessee HOPE access grant in the fall semester of 2009 or later may receive the scholarship until the first of the terminating events described in § 49-4-913(b) and (c).

SECTION 9. Tennessee Code Annotated, Section 49-4-921(a), is amended by deleting the subsection in its entirety and substituting instead the following language:

(a) To be eligible for a Wilder-Naifeh technical skills grant, a student seeking a diploma or certificate at a Tennessee college of applied technology operated by the board of regents of the state university and community college system shall:

(1) Meet the requirements of §§ 49-4-904 and 49-4-905(a); and

(2) Be admitted to the institution in a program of study leading to a certificate or diploma.

SECTION 10. Tennessee Code Annotated, Section 49-4-923, is amended by adding the following language:

(a) This section shall be known and may be cited as the "Wilder-Naifeh Reconnect" grant.

(b) To be eligible for a Wilder-Naifeh reconnect grant, a student seeking a diploma or certificate at a Tennessee college of applied technology operated by the board of regents of the state university and community college system shall:

(1) Meet the requirements of §§ 49-4-904 and 49-4-905(a);

(2) Be admitted to the institution in a program of study leading to a certificate or diploma;

(3) Complete and file the FAFSA. Students shall complete the FAFSA each academic year in which they seek to receive the Wilder-Naifeh reconnect grant; and

(4) Be an independent student as determined by the FAFSA.

(c) A student who receives a Wilder-Naifeh reconnect grant under this section shall be enrolled full-time as defined in § 49-4-708. If a student fails to maintain satisfactory academic progress, then the student shall lose the Wilder-Naifeh reconnect grant. Once a student loses a Wilder-Naifeh reconnect grant, no additional award under this section shall be made.

(d) A student who has been awarded a Wilder-Naifeh reconnect grant shall maintain continuous enrollment at the institution in accordance with the institution's requirements.

(e) A student shall reapply each academic year for the Wilder-Naifeh reconnect grant.

(f) An eligible student may receive a Wilder-Naifeh reconnect grant for all course work required by the institution for a program of study leading to a certificate or diploma. Wilder-Naifeh reconnect grants may not be used for continuing education courses.

(g) Subject to the amounts appropriated by the general assembly and any law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery, a Wilder-Naifeh reconnect grant awarded under this section shall be for independent students as determined by the FAFSA, and shall be the cost of tuition and mandatory fees at the Tennessee college of applied technology attended less all other gift aid, which shall be credited first to the student's tuition and mandatory fees.

(h) No student shall be eligible for more than one (1) Wilder-Naifeh reconnect grant.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act,
which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. For the purposes of promulgation of the rules and for fund transfers made pursuant to Section 1, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2015, the public welfare requiring it.
programs; relating to earning high school credit for completion of vocational education
courses offered by institutions receiving technical and vocational education program
funding; relating to schools operated by a federal agency; relating to education tax
credits; establishing an optional municipal tax exemption for privately owned real
property rented or leased for use as a charter school; establishing a pilot project for
public middle school students; requiring the Department of Administration to provide a
proposal for a salary and benefits schedule for school districts and for teacher tenure;
requiring the Legislative Budget and Audit Committee to provide for studies on public
education funding; requiring the Department of Education and Early Development to
report to the legislature on school design and construction; relating to grants to school
districts; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 09.20.030(b) is amended to read:

(b) A person may claim exemption and shall be excused by the court from
service as a juror during the school term if it is shown that the person is a teacher in a
school that is designated as a low performing school under regulations adopted by
the state Board of Education and Early Development [FAILING TO MAKE
ADEQUATE YEARLY PROGRESS UNDER P.L. 107-110]. In this subsection,
"teacher" means a person who serves a school district in a teaching capacity in a
classroom setting and is required to be certificated in order to hold the position.

* Sec. 2. AS 14.03 is amended by adding a new section to read:

Sec. 14.03.073. Secondary school course credit. (a) A school district shall
provide the opportunity for students enrolled in a secondary school in the district to
challenge a course provided by the district by demonstrating mastery in mathematics,
language arts, science, social studies, and world languages at the level of the course
challenged. A school district shall give full credit for a course to a student who
successfully challenges that course as provided under this section.
(b) A school district shall establish, within a reasonable time, an assessment tool and a standard for demonstrating mastery in secondary school courses provided by the district under this section.

(c) The board shall adopt regulations to implement this section.

(d) In this section, "school district" has the meaning given in AS 14.30.350.

* Sec. 3. AS 14.03.075 is repealed and reenacted to read:

Sec. 14.03.075. College and career readiness assessment. (a) A school may not issue a secondary school diploma to a student unless the student takes a college and career readiness assessment or receives a waiver from the governing body.

(b) A school shall award a certificate of achievement to a student who fails to qualify for a diploma under (a) of this section by the end of the student's final semester of attendance but who has met all other graduation requirements of the governing body and the state.

(c) The department shall provide funding for the fee for a single administration of a college and career readiness assessment for each secondary student within two years of the student's expected graduation.

(d) In this section, "college and career readiness assessment" means the SAT, ACT, or WorkKeys assessment.

* Sec. 4. AS 14.03.078 is amended to read:

Sec. 14.03.078. Report. The department shall provide to the legislature by February 15 of each year by electronic means an annual report regarding the progress of each school and school district toward high academic performance by all students. The report required under this section must include

(1) information described under AS 14.03.120(d);

(2) [THE NUMBER AND PERCENTAGE OF STUDENTS IN EACH SCHOOL WHO PASS THE EXAMINATION REQUIRED UNDER AS 14.03.075, AND THE NUMBER WHO PASS EACH SECTION OF THE EXAMINATION;

(3)] progress of the department

(A) toward implementing the school accountability provisions of AS 14.03.123; and
of the Senate and the Speaker of the House of Representatives on
or before January 31, 2015.

Section 19. Section 1007.2616, Florida Statutes, is
created to read:

1007.2616 Computer science and technology instruction.—
(1) Public schools shall provide students in grades K-12
opportunities for learning computer science, including, but not
limited to, computer coding and computer programming. Such
opportunities may include coding instruction in elementary
school and middle school, instruction to develop students’
computer usage and digital literacy skills in middle school, and
courses in computer science, computer coding, and computer
programming in high school, including earning related industry
certifications.

(2) Elementary schools and middle schools may establish
digital classrooms in which students are provided opportunities
to improve digital literacy and competency; to learn digital
skills, such as coding, multiple media presentation, and the
manipulation of multiple digital graphic images; and to earn
digital tool certificates and certifications pursuant to s.
1003.4203 and grade-appropriate, technology-related industry
certifications.

(3) High schools may provide students opportunities to
take computer science courses to satisfy high school graduation
requirements, including, but not limited to, the following:

(a) High school computer science courses of sufficient
rigor, as identified by the commissioner, such that one credit
in computer science and the earning of related industry
certifications constitute the equivalent of up to one credit of
the mathematics requirement, with the exception of Algebra I or
higher-level mathematics, or up to one credit of the science
requirement, with the exception of Biology I or higher-level
science, for high school graduation. Computer science courses
and technology-related industry certifications that are
identified as eligible for meeting mathematics or science
requirements for high school graduation shall be included in the
Course Code Directory.

(b) High school computer technology courses in 3D rapid
prototype printing of sufficient rigor, as identified by the
commissioner, such that one or more credits in such courses and
related industry certifications earned may satisfy up to two
credits of mathematics required for high school graduation with
the exception of Algebra I. Computer technology courses in 3D
rapid prototype printing and related industry certifications
that are identified as eligible for meeting mathematics
requirements for high school graduation shall be included in the
Course Code Directory.

(4) The State Board of Education may adopt rules to
administer this section.

Section 20. Subsection (1) of section 1007.27, Florida
Statutes, is amended to read:

1007.27 Articulated acceleration mechanisms.—
AN ACT

To amend and reenact R.S. 17:183.1(A) and (C)(2), 183.2, 183.3(A)(2), (B), (C), and (D), and 2925 and to enact R.S. 17:183.1(D), relative to the high school career option program; to provide relative to requirements for a career major and related course work; to provide that a career diploma be considered and recognized by all public postsecondary education institutions and given the same status as a regular diploma for purposes of the school and district accountability system; to provide relative to conditions to be met by a student pursuing a career major curriculum; to delete the requirement for parental consent for a student to pursue such curriculum; to delete certain requirements relative to pupil progression plans; to provide relative to requirements for Individual Graduation Plans for students; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:183.1(A) and (C)(2), 183.2, 183.3(A)(2), (B), (C), and (D), and 2925 are hereby amended and reenacted and R.S. 17:183.1(D) is hereby enacted to read as follows:

§183.1. Purpose

A. The purpose of this Subpart is to create a career option in Louisiana's high schools which shall consist of an academic major comprised of college preparatory
courses and a career major comprised of challenging academic courses and modern vocational career and technical studies.

* * *

C.

* * *

(2) A career diploma earned through a career major program and issued by the State Board of Elementary and Secondary Education shall be considered a regular standard diploma and shall be recognized by all Louisiana public postsecondary education institutions under the management and supervision of the Board of Supervisors of Community and Technical Colleges.

D. Except as provided in R.S. 17:183.3(B)(3), a career diploma issued to a student pursuant to this Subpart shall be given the same status and recognition for purposes of calculations made pursuant to the school and district accountability system required by R.S. 17:10.1, as is given a regular standard diploma issued by the State Board of Elementary and Secondary Education. A school or school system shall not be penalized in any manner for students who are issued a career diploma.

§183.2. Career option description

A. To prepare students for choosing a career option at the high school level, in grades six through eight, teachers schools shall incorporate activities which expose students to career and technical and academic fields of study. Such activities may include field trips, guest speakers, community services, and other activities such as word processing, desktop production, computer-assisted drafting and graphics, and other uses of technology designed to introduce students to occupations in demand in Louisiana. At least six activities shall be conducted at each grade level during each school year. Each teacher of grades six through eight shall maintain records of such activities.

B.(1) By the end of the eighth grade, each student shall develop, with the input of his family, a Five-Year Individual Graduation Plan. Such a plan shall include a sequence of courses which is consistent with the student’s stated goals for one year after graduation. Each student’s Five Year Individual Graduation Plan shall include a sequence of courses which is consistent with the student’s stated goals for one year after graduation. Each student’s Five Year Individual Graduation Plan shall...
be reviewed annually thereafter by the student, parents, and school advisor and
revised as needed:

(2) School guidance counselors or others designated by the school principal
or both, shall be responsible for the completion of the Five-Year Individual
Graduation Plan of each eighth grade student. The guidance counselors and others
shall counsel each student with regard to high school graduation requirements and
shall assist the student in developing his plan. The guidance counselors and others
shall forward such plans to the appropriate high schools where such students shall
attend:

C-B. Throughout high school, each student shall pursue the rigorous
curriculum required for his chosen major by his school as approved by the State
Board of Elementary and Secondary Education.

D-C. Students shall be able to change from one major to the other at the end of any school year at
semester.

§183.3. Career major; description; curriculum and graduation requirements
A.

* * *

(2)(a) Each city, parish, and other local public school system shall develop
and offer one or more career major programs aligned to state and regional workforce
demands, pursuant to policies adopted subject to approval by the State Board of
Elementary and Secondary Education. However, any such school system may be
granted a waiver from this requirement by the State Board of Elementary and
Secondary Education for good cause:

(b) Schools, in partnership with local business and industry leaders, local
economic development agencies, and postsecondary education leaders, shall review
majors offered each year and expand offerings as appropriate, including courses
offered through articulation, dual enrollment, correspondence, industry training
programs, and technological methods such as distance learning through the Internet
and compressed video digital learning opportunities.
B.(1) Students in a career major program shall complete an academic core of courses and a career and technical sequence of courses or approved training programs that lead to an approved industry-based credential.

(2) The course requirements for the career major shall consist of the following:

(a) At least four English credits, including English I, English II, and two additional courses from among the following: English III, English IV, AP or IB English courses, Business English, Technical Writing, or comparable Louisiana Technical College comparable or identical to English courses offered by the Louisiana Technical College. Jump Start regional teams as approved by the State Board of Elementary and Secondary Education.

(b) At least four mathematics credits, including Algebra I, Algebra I Part One; and Algebra I Part Two, or an applied or hybrid Algebra course, and three additional applied or hybrid mathematics courses from among the following: Geometry, Math Essentials, Financial Literacy, Business Math, Algebra II, Algebra III, Advanced Math - Functions and Statistics, Advanced Math - Pre-Calculus, Pre-Calculus, or comparable Louisiana Technical College comparable or identical to courses offered by the Louisiana Technical College as needed to fulfill the mathematics course requirements. Jump Start regional teams as approved by the State Board of Elementary and Secondary Education. Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry, and Algebra II, and shall equal three mathematics credits.

(c) At least three science credits, including one unit credit of Biology and two additional courses selected from a list of science courses related to the student's chosen career major as approved by the State Board of Elementary and Secondary Education among the following: Chemistry I, Earth Science, Environmental Science, Physical Science, Agriscience I and Agriscience II (one credit combined), or AP or IB Science courses.

(d) At least three social studies credits, including one credit from among the following: U.S. History, AP U.S. History, or IB U.S. History; one-half credit
from among the following: Government, AP U.S. Government and Politics; Comparative, or AP U.S. Government and Politics: United States; and one-half credit from among the following: Economics, AP Macroeconomics, or AP Microeconomics. One credit of Civics may be substituted for any two of the one-half credit courses specified in this Subparagraph unit of American History and one additional course selected from a list of social studies courses approved by the State Board of Elementary and Secondary Education. Each student shall successfully complete coursework in Civics and Free Enterprise, as provided in R.S. 17:274.1.

(e) At least two credits in Health and Physical Education, including one credit of Physical Education I, one-half credit from among the following: Physical Education II, Marching Band, Extracurricular Sports, Cheering, or Dance Teams; and one-half credit of Health Education.

(f) At least seven nine credits in career and technical education courses with end-of-course testing as appropriate and approved by the State Board of Elementary and Secondary Education, including at least one-half credit in a career readiness course and one credit in a computer applications course. Courses shall be selected to prepare a student for postsecondary education or a career. Jump Start course sequences, workplace experiences, and credentials. A student shall complete a regionally designed series of Career and Technical Education Jump Start coursework and workplace-based learning experiences leading to a statewide or regional Jump Start credential. This shall include courses and workplace experiences specific to the credential, courses related to foundational career skills requirements in Jump Start, and other courses, including career electives, that the Jump Start regional team determines are appropriate for the career major.

(g) Additional electives or career and technical education courses required by the city, parish, or other local public school board as approved by the State Board of Elementary and Secondary Education.

(3) The questions included in any end-of-course examination administered to students pursuing a career major program and curriculum as provided in this Section, the passage of which is required for high school graduation, shall be
constructed in a manner that reflects course design and content and the method of instruction employed for the course:

(3) A student pursuing a career diploma shall take the American College Test and may choose to take the WorkKeys test. The State Board of Elementary and Secondary Education shall develop a system of equivalent scores for the American College Test and the WorkKeys test and shall use a student's highest score achieved on such test or tests for purposes of the school and district accountability system required by R.S. 17:10.1.

C. Each city, parish, and other local public school board seeking to establish a career major shall submit a proposed curriculum to the State Board of Elementary and Secondary Education for approval. Such curriculum shall comply with the provisions of Subsection B of this Section and the provisions of R.S. 17:261 through 280.

D. (1) A student who seeks to pursue a career major curriculum must meet one of the following conditions:

(a)(1) The student has fulfilled all of the requirements established by the State Board of Elementary and Secondary Education and the city, parish, or other local public school board where the student is enrolled for promotion to the ninth grade high school.

(b)(i) The student is at least fifteen years of age, or will attain the age of fifteen during the next school year, scored at least at the approaching basic level on either the English/Language Arts or Mathematics component of the eighth grade Louisiana Educational Assessment Program test, and meets the objective criteria established by the pupil progression plan of the city, parish, or other local public school system where the student is enrolled to enter the ninth grade for the purpose of pursuing a career major curriculum.

(ii) Prior to entering the ninth grade, such student must complete a summer remediation program in the subject area of any component of the eighth grade Louisiana Educational Assessment Program test on which the student scored at the unsatisfactory level, as established by the State Board of Elementary and Secondary
Education. Any such student who fails to satisfactorily complete a summer remediation program shall be required to complete any approved developmental course or courses, for credit, as may be deemed necessary to ensure that the student is prepared to undertake the coursework required for his chosen career major:

(iii) The State Board of Elementary and Secondary Education shall certify that the pupil progression plan established by each city, parish, or other local public school system that promotes a student to the ninth grade pursuant to this Subparagraph contains the following requirements:

(aa) Such student, at a minimum, must have achieved a cumulative grade point average of at least 1.5 on a 4.0 scale for coursework required for completion of the eighth grade;

(bb) Such student must have demonstrated acceptable attendance and behavior standards as determined by the State Board of Elementary and Secondary Education;

(cc) Such student must participate, during his first year in high school, in a dropout prevention and mentoring program developed in consultation with school guidance personnel, as approved by the State Board of Elementary and Secondary Education;

(2) Every student who seeks to pursue a career major must have the written permission of his parent or other legal guardian, after consultation with the school guidance counselor or other school administrator and a determination that participation in a career major curriculum and pursuit of a career diploma issued by the State Board of Elementary and Secondary Education is appropriate and in the best interest of the student.

(2) Has fulfilled or is determined to be on track to fulfill the course requirements set forth in Paragraph (B)(2) of this Section.

(3) Meets the entry or admissions requirements set forth in the chosen career major program.

* * *

CODING: Words in *struck through* type are deletions from existing law; words *underscored* are additions.
§2925. Individual graduation plan

A.(1) In accordance with the provisions of R.S. 17:183.2, by the end of the eighth grade, every student, with the assistance of his parent or other legal guardian and school guidance personnel, shall begin to develop an individual graduation plan to guide the next academic year's course work and to assist them in exploring educational and career possibilities and in making appropriate secondary and postsecondary education decisions as part of an overall career plan. The plan shall be based on the student's talents and interests and shall consider high school graduation requirements relevant to the student's chosen major and postsecondary entrance requirements.

(2) By the end of the eighth grade, each student's Individual Graduation Plan shall list the required core courses to be taken through the tenth grade and shall identify the courses to be taken in the first year of high school. Students who fail to meet the standard for promotion to the ninth grade, pursuant to policies adopted by the State Board of Elementary and Secondary Education, shall have any necessary remedial courses included in their Individual Graduation Plan. The plan shall be reviewed annually and updated as necessary to identify the courses to be taken each year until all required core courses are completed.

(3) By the end of the tenth grade, each student's Individual Graduation Plan, based on the student's academic record, talents and interests, shall outline high school graduation requirements relevant to the student's chosen postsecondary goals. Each student, with the assistance of his parent or other legal guardian and school guidance personnel, shall be allowed to choose the high school curriculum framework and related graduation requirements that best meets his postsecondary goals. Each student's Individual Graduation Plan shall include the recommended sequence of courses for successful completion of his chosen major, a standard diploma that aligns with postsecondary education, training, and the workforce and shall be reviewed annually and updated or revised as needed.
(4)(5) The Individual Graduation Plan Individual graduation plans shall be sufficiently flexible to allow students the student to change their his program of study, yet be sufficiently structured to ensure that a the student will meet the high school graduation requirements for his chosen major and be qualified for admission to a postsecondary education institution or to enter the workforce.

(4)(5) Each student's individual graduation plan Individual Graduation Plan shall be signed by the student, and his parent or other legal guardian, custodian, and the school counselor.

B. To provide a foundation for the development of individual graduation plans the Individual Graduation Plan, schools shall provide career awareness and exploration activities to all students in grades six through eight that create linkages between what a student does in school and what he wants to achieve in life. Such activities shall include career interest inventories and information to assist them in the career decisionmaking decision making process and may include job shadowing, job mentoring, and job internships.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________________

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
SENATE ENROLLED ACT No. 115

AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 21-41-9 is added to the Indiana Code as a NEW chapter to read as follows [effective July 1, 2013]:

Chapter 9. Combat to College Program

Sec. 1. This chapter applies to a state educational institution only if at least two hundred (200) veteran students are enrolled in the state educational institution.

Sec. 2. As used in this chapter, "armed forces" has the meaning set forth in IC 10-17-12-2.

Sec. 3. As used in this chapter, "coordinator" refers to a program coordinator designated under section 10 of this chapter.

Sec. 4. As used in this chapter, "national guard" means a state's:

(1) army national guard; or
(2) air national guard.

Sec. 5. As used in this chapter, "postsecondary credit" means credit toward:

(1) an associate degree;
(2) a baccalaureate degree; or
(3) a career and technical education certification; granted by a state educational institution.

Sec. 6. As used in this chapter, "program" refers to the combat to college program established under section 8 of this chapter.

SEA 115+
Sec. 7. As used in this chapter, "veteran student" refers to a student of a state educational institution who has been or is currently serving as a member of the:

(1) armed forces; or
(2) national guard.

Sec. 8. Each state educational institution shall establish a combat to college program to create a positive educational environment for veteran students to successfully graduate from academic and vocational degree programs while recognizing the skills, training, and experiences associated with military service.

Sec. 9. Each state educational institution shall do the following:

(1) Provide on its application for admission a question asking whether the applicant is currently or has ever been a member of the armed forces and an instruction directing the applicant, if the applicant has been a member of the armed forces, to indicate on the application whether the applicant received an honorable discharge.

(2) To the extent possible exercising financial prudence, provide a centralized location for admissions, registration for classes, and financial administration services for veteran students.

(3) Provide reasonable accommodations, in compliance with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), at a state educational institution's fitness facility for veteran students who are disabled.

(4) Develop programs to provide academic and career counseling specifically designed for veteran students.

(5) Develop programs to provide reasonable access to specialized counseling services or resources for veteran students who are disabled or veteran students suffering from posttraumatic stress disorder.

(6) Develop job search assistance programs designed for veteran students during the veteran student's enrollment at the state educational institution.

Sec. 10. (a) Each state educational institution shall designate a program coordinator.

(b) The duties of the program coordinator include the following:

(1) Develop programs to create a positive educational environment for veteran students while the veteran student is enrolled at the state educational institution.

(2) Develop training programs for the state educational institution's personnel relating to:
(A) issues associated with identifying and assisting veteran students with posttraumatic stress disorder;
(B) veteran benefits; and
(C) any issue that the coordinator determines will educate a state educational institution's faculty or staff of the special needs of veteran students.

(3) Make recommendations to the commission for higher education established under IC 21-18-2 concerning ways to improve the education of veteran students.

(4) Coordinate access to stress management, counseling programs, and other resources available to a veteran student at the state educational institution.

(5) Coordinate with the Indiana department of veterans' affairs established by IC 10-17-1-2 to educate veteran students about state benefits available to Indiana veterans.

(6) Coordinate with the United States Department of Veterans Affairs to educate veteran students about federal benefits available to veterans.

(7) Coordinate with the adjutant general or the adjutant general's designee to educate veteran students about benefits and programs available to veteran students who served or are currently serving in the national guard.

(8) Coordinate activities, seminars, and programs for veteran students presented by a veterans organization listed in IC 10-18-8-1.

(9) Coordinate campus activities and social events designed for veteran students.

(10) Develop programs to assist a veteran student to locate employment.

(11) Develop internship programs designed specifically for veteran students.

(12) Develop an Internet web site to provide veteran students access to veteran resources.
CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5969

63rd Legislature
2014 Regular Session

Passed by the Senate February 12, 2014
YEAS 48  NAYS 0

President of the Senate

Passed by the House March 7, 2014
YEAS 97  NAYS 0

Secretary of the House of Representatives

CERTIFICATE

I, Hunter G. Goodman, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is SUBSTITUTE SENATE
BILL 5969 as passed by the Senate
and the House of Representatives on
the dates hereon set forth.

Secretary

Approved

FILED

Secretary of State
State of Washington
AN ACT Relating to awarding academic credit for military training; and adding a new section to chapter 28B.10 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28B.10 RCW to read as follows:

(1) Before December 31, 2015, each institution of higher education must adopt a policy to award academic credit for military training applicable to the student's certificate or degree requirements. The policy shall apply to any individual who is enrolled in the institution of higher education and who has successfully completed a military training course or program as part of his or her military service that is:

(a) Recommended for credit by a national higher education association that provides credit recommendations for military training courses and programs;

(b) Included in the individual's military transcript issued by any branch of the armed services; or

(c) Other documented military training or experience.
(2) Each institution of higher education must develop a procedure for receiving the necessary documentation to identify and verify the military training course or program that an individual is claiming for academic credit.

(3) Each institution of higher education must provide a copy of its policy for awarding academic credit for military training to any applicant who listed prior or present military service in his or her application. Each institution of higher education must develop and maintain a list of military training courses and programs that have qualified for academic credit.

(4) Each institution of higher education must submit its policy for awarding academic credit for military training to the prior learning assessment work group convened pursuant to RCW 28B.77.230.
AN ACT CONCERNING EXCUSED ABSENCES FROM SCHOOL FOR CHILDREN OF SERVICE MEMBERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 10-198a of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2014):

(a) For purposes of this section, "truant" means a child age five to eighteen, inclusive, who is enrolled in a public or private school and has four unexcused absences from school in any one month or ten unexcused absences from school in any school year.

(b) Each local and regional board of education shall adopt and implement policies and procedures concerning truants who are enrolled in schools under the jurisdiction of such board of education. Such policies and procedures shall include, but need not be limited to, the following: (1) The holding of a meeting with the parent of each child who is a truant, or other person having control of such child, and appropriate school personnel to review and evaluate the reasons for the child being a truant, provided such meeting shall be held not later than ten school days after the child's fourth unexcused absence in a month or tenth unexcused absence in a school year, (2) coordinating services with and referrals of children to community agencies
providing child and family services, (3) annually at the beginning of
the school year and upon any enrollment during the school year,
notifying the parent or other person having control of each child
enrolled in a grade from kindergarten to eight, inclusive, in the public
schools in writing of the obligations of the parent or such other person
pursuant to section 10-184, (4) annually at the beginning of the school
year and upon any enrollment during the school year, obtaining from
the parent or other person having control of each child in a grade from
kindergarten to eight, inclusive, a telephone number or other means of
contacting such parent or such other person during the school day, and
(5) a system of monitoring individual unexcused absences of children
in grades kindergarten to eight, inclusive, which shall provide that
whenever a child enrolled in school in any such grade fails to report to
school on a regularly scheduled school day and no indication has been
received by school personnel that the child's parent or other person
having control of the child is aware of the pupil's absence, a reasonable
effort to notify, by telephone and by mail, the parent or such other
person shall be made by school personnel or volunteers under the
direction of school personnel. Such mailed notice shall include a
warning that two unexcused absences from school in a month or five
unexcused absences in a school year may result in a complaint filed
with the Superior Court pursuant to section 46b-149 alleging the belief
that the acts or omissions of the child are such that the child's family is
a family with service needs. Any person who, in good faith, gives or
fails to give notice pursuant to subdivision (5) of this subsection shall
be immune from any liability, civil or criminal, which might otherwise
be incurred or imposed and shall have the same immunity with
respect to any judicial proceeding which results from such notice or
failure to give such notice.

(c) If the parent or other person having control of a child who is a
trunant fails to attend the meeting held pursuant to subdivision (1) of
subsection (b) of this section or if such parent or other person
otherwise fails to cooperate with the school in attempting to solve the truancy problem, such policies and procedures shall require the superintendent of schools to file, not later than fifteen calendar days after such failure to attend such meeting or such failure to cooperate with the school attempting to solve the truancy problem, for each such truant enrolled in the schools under his jurisdiction a written complaint with the Superior Court pursuant to section 46b-149 alleging the belief that the acts or omissions of the child are such that the child's family is a family with service needs.

(d) Nothing in subsections (a) to (c), inclusive, of this section shall preclude a local or regional board of education from adopting policies and procedures pursuant to this section which exceed the requirements of said subsections.

(e) The provisions of this section shall not apply to any child receiving equivalent instruction pursuant to section 10-184.

(f) A child, age five to eighteen, inclusive, who is enrolled in a public or private school and whose parent or legal guardian is an active duty member of the armed forces, as defined in section 27-103, and has been called to duty for, is on leave from or has immediately returned from deployment to a combat zone or combat support posting, shall be granted ten days of excused absences in any school year and, at the discretion of the local or regional board of education, additional excused absences to visit such child's parent or legal guardian with respect to such leave or deployment of the parent or legal guardian. In the case of excused absences pursuant to this subsection, such child and parent or legal guardian shall be responsible for obtaining assignments from the student's teacher prior to any period of excused absence, and for ensuring that such assignments are completed by such child prior to his or her return to school from such period of excused absence.
HOUSE BILL 14-1204


CONCERNING FLEXIBILITY REGARDING THE REQUIREMENTS IMPOSED ON RURAL SCHOOL DISTRICTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 22-11-303, add (4) as follows:

22-11-303. Accredited or accredited with distinction - performance plan - school district or institute - contents - adoption. (4) (a) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION TO THE CONTRARY, THE LOCAL SCHOOL BOARD OF A SMALL RURAL SCHOOL DISTRICT MAY ADOPT AND SUBMIT TO THE DEPARTMENT A SCHOOL DISTRICT PERFORMANCE PLAN FOR THE SCHOOL
DISTRICT AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION EVERY TWO YEARS SO LONG AS THE SCHOOL DISTRICT MAINTAINS THE STATUS OF ACCREDITED OR ACCREDITED WITH DISTINCTION.

(b) AS USED IN PARAGRAPH (a) OF THIS SUBSECTION (4), A SMALL RURAL SCHOOL DISTRICT IS A SCHOOL DISTRICT IN COLORADO THAT THE DEPARTMENT DETERMINES IS RURAL, BASED ON THE GEOGRAPHIC SIZE OF THE SCHOOL DISTRICT AND THE DISTANCE OF THE SCHOOL DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA, AND THAT ENROLLS FEWER THAN ONE THOUSAND TWO HUNDRED STUDENTS.

SECTION 2. In Colorado Revised Statutes, 22-11-403, add (4) as follows:

22-11-403. School performance plan - contents. (4) (a) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE SCHOOL PRINCIPAL AND THE SCHOOL DISTRICT SUPERINTENDENT, OR HIS OR HER DESIGNEE, OF A PUBLIC SCHOOL OF A SMALL RURAL SCHOOL DISTRICT MAY ADOPT A SCHOOL PERFORMANCE PLAN FOR THE PUBLIC SCHOOL AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION EVERY TWO YEARS SO LONG AS THE STATE BOARD, PURSUANT TO SECTION 22-11-210, REQUIRES THE PUBLIC SCHOOL TO IMPLEMENT A PERFORMANCE PLAN.

(b) AS USED IN PARAGRAPH (a) OF THIS SUBSECTION (4), A SMALL RURAL SCHOOL DISTRICT IS A SCHOOL DISTRICT IN COLORADO THAT THE DEPARTMENT DETERMINES IS RURAL, BASED ON THE GEOGRAPHIC SIZE OF THE SCHOOL DISTRICT AND THE DISTANCE OF THE SCHOOL DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA, AND THAT ENROLLS FEWER THAN ONE THOUSAND TWO HUNDRED STUDENTS.

SECTION 3. In Colorado Revised Statutes, 22-11-210, amend (2) (b) as follows:

22-11-210. Public schools - annual review - plans - supports and interventions - rules. (2) (b) (I) Notwithstanding any provision of this article to the contrary, a school district with one thousand students or fewer may submit a single plan to satisfy the school district and school plan requirements, so long as the plan meets all state and federal requirements for school and district plans. A school district with more than one thousand
but fewer than one thousand two hundred students may, upon request and at the department's discretion, submit a single plan to satisfy the school district and school plan requirements, so long as the plan meets all state and federal requirements for school and district plans.

(II) A SMALL RURAL SCHOOL DISTRICT THAT IS AUTHORIZED PURSUANT TO SECTION 22-11-303 (4) TO SUBMIT A SCHOOL DISTRICT PERFORMANCE PLAN EVERY TWO YEARS MAY SUBMIT A SINGLE PLAN TO SATISFY THE SCHOOL DISTRICT AND SCHOOL PLAN REQUIREMENTS ONLY IF EACH OF THE PUBLIC SCHOOLS THAT IS INCLUDED IN THE SINGLE PLAN IS AUTHORIZED PURSUANT TO SECTION 22-11-403 (4) TO SUBMIT A SCHOOL PERFORMANCE PLAN EVERY TWO YEARS. AS USED IN THIS SUBPARAGRAPH (II), A SMALL RURAL SCHOOL DISTRICT IS A SCHOOL DISTRICT IN COLORADO THAT THE DEPARTMENT DETERMINES IS RURAL, BASED ON THE GEOGRAPHIC SIZE OF THE SCHOOL DISTRICT AND THE DISTANCE OF THE SCHOOL DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA, AND THAT ENROLLS FEWER THAN ONE THOUSAND TWO HUNDRED STUDENTS.

SECTION 4. In Colorado Revised Statutes, 22-7-1210, amend (5) (b) (III); and add (5) (b) (III.5) as follows:

22-7-1210. Early literacy fund - created - repeal. (5) (b) A local education provider may use the per-pupil intervention moneys only as follows:

(III) To purchase tutoring services in reading for students with significant reading deficiencies; or

(III.5) FOR A LOCAL EDUCATION PROVIDER THAT IS A SMALL RURAL SCHOOL DISTRICT AS DESCRIBED IN SECTION 22-11-303 (4) (b), TO PURCHASE FROM A BOARD OF COOPERATIVE SERVICES THE SERVICES OF A LITERACY SPECIALIST TO PROVIDE EDUCATOR PROFESSIONAL DEVELOPMENT IN LITERACY AND OTHER SUPPORT IN IMPLEMENTING THE REQUIREMENTS OF THIS PART 12; OR

SECTION 5. In Colorado Revised Statutes, 22-7-1211, amend (1) and (2) (c); and add (2) (c.5) as follows:

22-7-1211. Early literacy grant program - created. (1) There is hereby created in the department the early literacy grant program to provide

PAGE 3-HOUSE BILL 14-1204
moneys to local education providers to implement literacy support and intervention instruction programs, including but not limited to related professional development programs, to assist students in kindergarten and first, second, and third grades to achieve reading competency. The state board by rule shall establish the application timelines and the information to be included in each grant application. A local education provider may apply individually or as part of a group of local education providers. A rural school district that is a member of a board of cooperative services may seek assistance in writing the grant application from the board of cooperative services. A board of cooperative services may apply for a grant to provide instructional support in literacy for small rural school districts, as described in section 22-11-303 (4) (b), that are members of the board of cooperative services.

(2) The department shall review each grant application received and recommend to the state board whether to award the grant and the duration and amount of each grant. In making recommendations, the department shall consider the following factors:

(c) The cost of the instructional program that the applying local education provider or group of local education providers plans to implement using the grant moneys; and

(c.5) In the case of a board of cooperative services that applies for a grant to provide instructional support in literacy, the number of small rural school districts, as described in section 22-11-303 (4) (b), the number of kindergarten and first-, second-, and third-grade students enrolled in the small rural school districts, and the resources available to the small rural school districts that will receive instructional support as a result of the grant;

SECTION 6. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Morgan Carroll
PRESIDENT OF THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF THE SENATE

APPROVED________________________________________

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

PAGE 5-HOUSE BILL 14-1204
AN ACT
relating to the criminal procedures related to children who commit
certain Class C misdemeanors.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Article 42.15, Code of Criminal Procedure, is
amended by amending Subsection (b) and adding Subsections (d), (e),
and (f) to read as follows:
(b) Subject to Subsections (c) and (d), when
imposing a fine and costs, a court may direct a defendant:
(1) to pay the entire fine and costs when sentence is
pronounced;
(2) to pay the entire fine and costs at some later
date; or
(3) to pay a specified portion of the fine and costs at
designated intervals.
(d) A judge may allow a defendant who is a child, as defined
by Article 45.058(h), to elect at the time of conviction, as defined
by Section 133.101, Local Government Code, to discharge the fine
and costs by:
(1) performing community service or receiving
tutoring under Article 45.0492, as added by Chapter 227 (H.B. 350),
Acts of the 82nd Legislature, Regular Session, 2011; or
(2) paying the fine and costs in a manner described by
Subsection (b).
(e) The election under Subsection (d) must be made in writing, signed by the defendant, and, if present, signed by the defendant's parent, guardian, or managing conservator. The court shall maintain the written election as a record of the court and provide a copy to the defendant.

(f) The requirement under Article 45.0492(a), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, that an offense occur in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense does not apply to the performance of community service or the receipt of tutoring to discharge a fine or costs under Subsection (d)(1).

SECTION 2. Article 43.091, Code of Criminal Procedure, is amended to read as follows:

Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR INDIGENT DEFENDANTS AND CHILDREN. A court may waive payment of a fine or cost imposed on a defendant who defaults in payment if the court determines that:

(1) the defendant is indigent or was, at the time the offense was committed, a child as defined by Article 45.058(h); and

(2) each alternative method of discharging the fine or cost under Article 43.09 or 42.15 would impose an undue hardship on the defendant.

SECTION 3. Article 44.2811, Code of Criminal Procedure, is amended to read as follows:

Art. 44.2811. RECORDS RELATING TO CHILDREN CONVICTED OF OR RECEIVING DEFERRED DISPOSITION FOR FINE-ONLY MISDEMEANORS.
(a) This article applies only to a misdemeanor offense punishable by fine only, other than a traffic offense.

(b) All records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for an [a fine-only misdemeanor] offense described by Subsection (a) [other than a traffic offense] are confidential and may not be disclosed to the public except as provided under Article 45.0217(b). [All records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child whose conviction for a fine-only misdemeanor other than a traffic offense is affirmed are confidential upon satisfaction of the judgment and may not be disclosed to the public except as provided under Article 45.0217(b).]

SECTION 4. Article 45.0217, Code of Criminal Procedure, is amended to read as follows:

Art. 45.0217. CONFIDENTIAL RECORDS RELATED TO THE CONVICTION OF OR DEFERRAL OF DISPOSITION FOR A CHILD. (a) This article applies only to a misdemeanor offense punishable by fine only, other than a traffic offense.

(a-1) Except as provided by Article 15.27 and Subsection (b), all records and files, including those held by law enforcement, and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for or...
who has received a dismissal after deferral of disposition for an [a
fine-only misdemeanor] offense described by Subsection (a) [other
than a traffic offense] are confidential and may not be disclosed to
the public.

(b) Information subject to Subsection (a-1) [(a)] may be
open to inspection only by:

(1) judges or court staff;

(2) a criminal justice agency for a criminal justice
purpose, as those terms are defined by Section 411.082, Government
Code;

(3) the Department of Public Safety;

(4) an attorney for a party to the proceeding;

(5) the child defendant; or

(6) the defendant's parent, guardian, or managing
conservator.

SECTION 5. Article 45.041, Code of Criminal Procedure, is
amended by amending Subsection (b) and adding Subsections (b-3),
(b-4), and (b-5) to read as follows:

(b) Subject to Subsections [(subdivision)] (b-2) and (b-3),
the justice or judge may direct the defendant:

(1) to pay:

(A) the entire fine and costs when sentence is
pronounced;

(B) the entire fine and costs at some later date;

or

(C) a specified portion of the fine and costs at
designated intervals;
(2) if applicable, to make restitution to any victim of the offense; and

(3) to satisfy any other sanction authorized by law.

(b-3) A judge may allow a defendant who is a child, as defined by Article 45.058(h), to elect at the time of conviction, as defined by Section 133.101, Local Government Code, to discharge the fine and costs by:

(1) performing community service or receiving tutoring under Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011; or

(2) paying the fine and costs in a manner described by Subsection (b).

(b-4) The election under Subsection (b-3) must be made in writing, signed by the defendant, and, if present, signed by the defendant's parent, guardian, or managing conservator. The court shall maintain the written election as a record of the court and provide a copy to the defendant.

(b-5) The requirement under Article 45.0492(a), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, that an offense occur in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense does not apply to the performance of community service or the receipt of tutoring to discharge a fine or costs under Subsection (b-3)(1).

SECTION 6. Article 45.0491, Code of Criminal Procedure, is amended to read as follows:

Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR
INDIGENT DEFENDANTS AND CHILDREN. A municipal court, regardless of
whether the court is a court of record, or a justice court may waive
payment of a fine or costs imposed on a defendant who defaults in
payment if the court determines that:

(1) the defendant is indigent or was, at the time the
offense was committed, a child as defined by Article 45.058(h); and

(2) discharging the fine and costs under Article
45.049 or as otherwise authorized by this chapter would impose an
undue hardship on the defendant.

SECTION 7. Subsections (a) and (c), Article 45.056, Code of
Criminal Procedure, are amended to read as follows:

(a) On approval of the commissioners court, city council,
school district board of trustees, juvenile board, or other
appropriate authority, a county court, justice court, municipal
court, school district, juvenile probation department, or other
appropriate governmental entity may:

(1) employ a case manager to provide services in cases
involving juvenile offenders who are before a court consistent with
the court's statutory powers or referred to a court by a school
administrator or designee for misconduct that would otherwise be
within the court's statutory powers prior to a case being filed,
with the consent of the juvenile and the juvenile's parents or
guardians; or

(2) agree in accordance with Chapter 791, Government
Code, to jointly employ a case manager.

(c) A county or justice court on approval of the
commissioners court or a municipality or municipal court on
approval of the city council may employ one or more juvenile case managers who:

(1) shall [as] assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases; and

(2) may provide:

(A) prevention services to a child considered at-risk of entering the juvenile justice system; and

(B) intervention services to juveniles engaged in misconduct prior to cases being filed, excluding traffic offenses.

SECTION 8. Section 25.0915, Education Code, is amended by adding Subsection (c) to read as follows:

(c) A court shall dismiss a complaint or referral made by a school district under this section that is not made in compliance with Subsection (b).

SECTION 9. Subsection (b), Section 37.081, Education Code, is amended to read as follows:

(b) In a peace officer's jurisdiction, a peace officer commissioned under this section:

(1) has the powers, privileges, and immunities of peace officers;

(2) may enforce all laws, including municipal ordinances, county ordinances, and state laws; [and]

(3) may, in accordance with Chapter 52, Family Code, take a juvenile into custody; and

(4) may dispose of cases in accordance with Section
52.03 or 52.031, Family Code.

SECTION 10. Subsection (d), Section 37.124, Education Code, is amended to read as follows:

(d) It is an exception to the application of Subsection (a) that, at the time the person engaged in conduct prohibited under that subsection, the person was younger than 12 years of age [a student in the sixth grade or a lower grade level].

SECTION 11. Subsection (c), Section 37.126, Education Code, is amended to read as follows:

(c) It is an exception to the application of Subsection (a)(1) that, at the time the person engaged in conduct prohibited under that subdivision, the person was younger than 12 years of age [a student in the sixth grade or a lower grade level].

SECTION 12. Chapter 37, Education Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. CRIMINAL PROCEDURE

Sec. 37.141. DEFINITIONS. In this subchapter:

(1) "Child" has the meaning assigned by Article 45.058(h), Code of Criminal Procedure, except that the person must also be a student.

(2) "School offense" means an offense committed by a child enrolled in a public school that is a Class C misdemeanor other than a traffic offense and that is committed on property under the control and jurisdiction of a school district.

Sec. 37.142. CONFLICT OF LAW. To the extent of any conflict, this subchapter controls over any other law applied to a school offense alleged to have been committed by a child.
Sec. 37.143. CITATION PROHIBITED; CUSTODY OF CHILD. (a) A peace officer may not issue a citation to a child who is alleged to have committed a school offense.

(b) This subchapter does not prohibit a child from being taken into custody under Section 52.01, Family Code.

Sec. 37.144. GRADUATED SANCTIONS FOR CERTAIN SCHOOL OFFENSES. (a) A school district that commissions peace officers under Section 37.081 may develop a system of graduated sanctions that the school district may require to be imposed on a child before a complaint is filed under Section 37.145 against the child for a school offense that is an offense under Section 37.124 or 37.126 or under Section 42.01(a)(1), (2), (3), (4), or (5), Penal Code. A system adopted under this section must include multiple graduated sanctions. The system may require:

(1) a warning letter to be issued to the child and the child's parent or guardian that specifically states the child's alleged school offense and explains the consequences if the child engages in additional misconduct;

(2) a behavior contract with the child that must be signed by the child, the child's parent or guardian, and an employee of the school and that includes a specific description of the behavior that is required or prohibited for the child and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court;

(3) the performance of school-based community service by the child; and
the referral of the child to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems.

(b) A referral made under Subsection (a)(4) may include participation by the child's parent or guardian if necessary.

Sec. 37.145. COMPLAINT. If a child fails to comply with or complete graduated sanctions under Section 37.144, or if the school district has not elected to adopt a system of graduated sanctions under that section, the school may file a complaint against the child with a criminal court in accordance with Section 37.146.

Sec. 37.146. REQUISITES OF COMPLAINT. (a) A complaint alleging the commission of a school offense must, in addition to the requirements imposed by Article 45.019, Code of Criminal Procedure:

(1) be sworn to by a person who has personal knowledge of the underlying facts giving rise to probable cause to believe that an offense has been committed; and

(2) be accompanied by a statement from a school employee stating:

(A) whether the child is eligible for or receives special services under Subchapter A, Chapter 29; and

(B) the graduated sanctions, if required under Section 37.144, that were imposed on the child before the complaint was filed.

(b) After a complaint has been filed under this subchapter, a summons may be issued under Articles 23.04 and 45.057(e), Code of Criminal Procedure.

Sec. 37.147. PROSECUTING ATTORNEYS. An attorney
representing the state in a court with jurisdiction may adopt rules pertaining to the filing of a complaint under this subchapter that the state considers necessary in order to:

(1) determine whether there is probable cause to believe that the child committed the alleged offense;
(2) review the circumstances and allegations in the complaint for legal sufficiency; and
(3) see that justice is done.

SECTION 13. Section 51.08, Family Code, is amended by adding Subsection (f) to read as follows:

(f) A court shall waive original jurisdiction for a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only, other than a traffic offense, and refer the child to juvenile court if the court or another court has previously dismissed a complaint against the child under Section 8.08, Penal Code.

SECTION 14. The heading to Chapter 52, Family Code, is amended to read as follows:

CHAPTER 52. PROCEEDINGS BEFORE AND INCLUDING REFERRAL TO [JUVENILE] COURT

SECTION 15. Subsection (a), Section 52.03, Family Code, is amended to read as follows:

(a) A law-enforcement officer authorized by this title to take a child into custody may dispose of the case of a child taken into custody or accused of a Class C misdemeanor, other than a traffic offense, without referral to juvenile court or charging a child in a court of competent criminal jurisdiction, if:
(1) guidelines for such disposition have been adopted by the juvenile board of the county in which the disposition is made as required by Section 52.032;

(2) the disposition is authorized by the guidelines; and

(3) the officer makes a written report of the officer's disposition to the law-enforcement agency, identifying the child and specifying the grounds for believing that the taking into custody or accusation of criminal conduct was authorized.

SECTION 16. Subsections (a), (d), (f), (i), and (j), Section 52.031, Family Code, are amended to read as follows:

(a) A juvenile board may establish a first offender program under this section for the referral and disposition of children taken into custody, or accused prior to the filing of a criminal charge, of [for]:

(1) conduct indicating a need for supervision; [or]

(2) a Class C misdemeanor, other than a traffic offense; or

(3) delinquent conduct other than conduct that constitutes:

(A) a felony of the first, second, or third degree, an aggravated controlled substance felony, or a capital felony; or

(B) a state jail felony or misdemeanor involving violence to a person or the use or possession of a firearm, illegal knife, or club, as those terms are defined by Section 46.01, Penal Code, or a prohibited weapon, as described by Section 46.05, Penal
Code.

(d) A law enforcement officer taking a child into custody or accusing a child of an offense described in Subsection (a)(2) may refer the child to the law enforcement officer or agency designated under Subsection (b) for disposition under the first offender program and not refer the child to juvenile court or a court of competent criminal jurisdiction only if:

1. the child has not previously been adjudicated as having engaged in delinquent conduct;
2. the referral complies with guidelines for disposition under Subsection (c); and
3. the officer reports in writing the referral to the agency, identifying the child and specifying the grounds for taking the child into custody or accusing a child of an offense described in Subsection (a)(2).

(f) The parent, guardian, or other custodian of the child must receive notice that the child has been referred for disposition under the first offender program. The notice must:

1. state the grounds for taking the child into custody or accusing a child of an offense described in Subsection (a)(2);
2. identify the law enforcement officer or agency to which the child was referred;
3. briefly describe the nature of the program; and
4. state that the child's failure to complete the program will result in the child being referred to the juvenile court or a court of competent criminal jurisdiction.
The case of a child who successfully completes the first offender program is closed and may not be referred to juvenile court or a court of competent criminal jurisdiction, unless the child is taken into custody under circumstances described by Subsection (j)(3).

The case of a child referred for disposition under the first offender program shall be referred to juvenile court or a court of competent criminal jurisdiction if:

1. the child fails to complete the program;
2. the child or the parent, guardian, or other custodian of the child terminates the child's participation in the program before the child completes it; or
3. the child completes the program but is taken into custody under Section 52.01 before the 90th day after the date the child completes the program for conduct other than the conduct for which the child was referred to the first offender program.

SECTION 17. Section 8.07, Penal Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) Notwithstanding Subsection (a), a person may not be prosecuted for or convicted of an offense described by Subsection (a)(4) or (5) that the person committed when younger than 10 years of age.

(e) A person who is at least 10 years of age but younger than 15 years of age is presumed incapable of committing an offense described by Subsection (a)(4) or (5), other than an offense under a juvenile curfew ordinance or order. This presumption may be refuted if the prosecution proves to the court by a preponderance of
the evidence that the actor had sufficient capacity to understand
that the conduct engaged in was wrong at the time the conduct was
engaged in. The prosecution is not required to prove that the actor
at the time of engaging in the conduct knew that the act was a
criminal offense or knew the legal consequences of the offense.

SECTION 18. Chapter 8, Penal Code, is amended by adding
Section 8.08 to read as follows:

Sec. 8.08. CHILD WITH MENTAL ILLNESS, DISABILITY, OR LACK
OF CAPACITY. (a) On motion by the state, the defendant, or a
person standing in parental relation to the defendant, or on the
court's own motion, a court with jurisdiction of an offense
described by Section 8.07(a)(4) or (5) shall determine whether
probable cause exists to believe that a child, including a child
with a mental illness or developmental disability:

(1) lacks the capacity to understand the proceedings
in criminal court or to assist in the child's own defense and is
unfit to proceed; or

(2) lacks substantial capacity either to appreciate
the wrongfulness of the child's own conduct or to conform the
child's conduct to the requirement of the law.

(b) If the court determines that probable cause exists for a
finding under Subsection (a), after providing notice to the state,
the court may dismiss the complaint.

(c) A dismissal of a complaint under Subsection (b) may be
appealed as provided by Article 44.01, Code of Criminal Procedure.

(d) In this section, "child" has the meaning assigned by
Article 45.058(h), Code of Criminal Procedure.
SECTION 19. Subsection (f), Section 42.01, Penal Code, is amended to read as follows:

(f) Subsections (a)(1), (2), (3), (5), and (6) do not apply to a person who, at the time the person engaged in conduct prohibited under the applicable subdivision, was a student younger than 12 years of age [in the sixth grade or a lower grade level], and the prohibited conduct occurred at a public school campus during regular school hours.

SECTION 20. Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 21. (a) Articles 42.15 and 45.041, Code of Criminal Procedure, as amended by this Act, apply only to a sentencing proceeding that commences on or after the effective date of this Act.

(b) Articles 43.091 and 45.0491, Code of Criminal Procedure, as amended by this Act, apply to a sentencing proceeding that commences before, on, or after the effective date of this Act.

SECTION 22. Articles 44.281 and 45.0217, Code of Criminal Procedure, as amended by this Act, apply to the disclosure of a record or file on or after the effective date of this Act regardless of whether the offense that is the subject of the record or file was
S.B. No. 393

committed before, on, or after the effective date of this Act.

SECTION 23. This Act takes effect September 1, 2013.

President of the Senate

I hereby certify that S.B. No. 393 passed the Senate on April 4, 2013, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendments on May 23, 2013, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 393 passed the House, with amendments, on May 20, 2013, by the following vote: Yeas 144, Nays 3, two present not voting.

Chief Clerk of the House

Approved:

__________________________
Date

__________________________
Governor
CHAPTER 2013-102

Committee Substitute for
Committee Substitute for House Bill No. 365

An act relating to pharmacy; amending s. 465.019, F.S.; permitting a class II institutional pharmacy formulary to include biologics, biosimilars, and biosimilar interchangeables; creating s. 465.0252, F.S.; providing definitions; providing requirements for a pharmacist to dispense a substitute biological product that is determined to be biosimilar to and interchangeable for the prescribed biological product; providing notification requirements for a pharmacist in a class II or modified class II institutional pharmacy; requiring the Board of Pharmacy to maintain a current list of interchangeable biosimilar products; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 465.019, Florida Statutes, is amended to read:

465.019 Institutional pharmacies; permits.—

(6) In a Class II institutional pharmacy, an institutional formulary system may be adopted with approval of the medical staff for the purpose of identifying those medicinal drugs, and proprietary preparations, biologics, biosimilars, and biosimilar interchangeables that may be dispensed by the pharmacists employed in such institution. A facility with a Class II institutional permit which is operating under the formulary system shall establish policies and procedures for the development of the system in accordance with the joint standards of the American Hospital Association and American Society of Hospital Pharmacists for the utilization of a hospital formulary system, which formulary shall be approved by the medical staff.

Section 2. Section 465.0252, Florida Statutes, is created to read:

465.0252 Substitution of interchangeable biosimilar products.—

(1) As used in this section, the terms “biological product,” “biosimilar,” and “interchangeable” have the same meanings as defined in s. 351 of the federal Public Health Service Act, 42 U.S.C. s. 262.

(2) A pharmacist may only dispense a substitute biological product for the prescribed biological product if:

(a) The United States Food and Drug Administration has determined that the substitute biological product is biosimilar to and interchangeable for the prescribed biological product.

(b) The prescribing health care provider does not express a preference against substitution in writing, verbally, or electronically.

CODING: Words stricken are deletions; words underlined are additions.
(c) The pharmacist notifies the person presenting the prescription of the substitution in the same manner as provided in s. 465.025(3)(a).

(d) The pharmacist retains a written or electronic record of the substitution for at least 2 years.

(3) A pharmacist who practices in a class II or modified class II institutional pharmacy shall comply with the notification provisions of paragraph (2)(c) by entering the substitution in the institution’s written medical record system or electronic medical record system.

(4) The board shall maintain on its public website a current list of biological products that the United States Food and Drug Administration has determined are biosimilar and interchangeable as provided in paragraph (2)(a).

Section 3. This act shall take effect July 1, 2013.

Approved by the Governor May 31, 2013.

Filed in Office Secretary of State May 31, 2013.
AN ACT to create and enact a new section to chapter 19-02.1 of the North Dakota Century Code, relating to biosimilar biological products.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 19-02.1 of the North Dakota Century Code is created and enacted as follows:

Biosimilar biological products.

1. In this section:
   a. "Biological product", "biosimilar", "interchangeable", "interchangeable biological product", "license", and "reference product" mean the same as these terms mean under section 351 of the Public Health Service Act [42 U.S.C. 262].
   b. "Prescription" means a product that is subject to section 503(b) of the federal Food, Drug, and Cosmetic Act [21 U.S.C. 353(b)].

2. A pharmacy may substitute a prescription biosimilar product for a prescribed product only if:
   a. The biosimilar product has been determined by the United States food and drug administration to be interchangeable with the prescribed product;
   b. The prescribing practitioner does not specifically indicate in the practitioner's own handwriting "brand medically necessary" on a written prescription, does not expressly indicate that an oral prescription is to be dispensed as communicated, or has not taken a specific overt action to include the "brand medically necessary" language with an electronically transmitted prescription;
   c. The pharmacist informs the individual receiving the biological product that the biological product may be substituted with a biosimilar product and that the individual has a right to refuse the biosimilar product selected by the pharmacist and the individual chooses not to refuse;
   d. The pharmacist notifies the prescribing practitioner orally, in writing, or by electronic transmission within twenty-four hours of the substitution; and
   e. The pharmacy and the prescribing practitioner retain a record of the interchangeable biosimilar substitution for a period of no less than five years.

3. The board of pharmacy shall maintain on its public website a current list, or an internet link to a United States food and drug administration-approved list, of biosimilar biological products determined to be interchangeable under subdivision a of subsection 2.
ENGROSSED
SENATE BILL No. 262

DIGEST OF SB 262 (Updated February 20, 2014 6:39 am - DI 84)

Citations Affected: IC 16-18; IC 16-42.

Synopsis: Biosimilar drugs. Allows a pharmacist to substitute an interchangeable biosimilar product for a prescribed biological product if certain conditions are met. Requires a pharmacist to record in a certain manner the name and manufacturer of a biologic product that the pharmacist is dispensing not later than ten days after dispensing the biologic product. Requires the board of pharmacy to maintain a link on the board's website to the current list of all biological products that are determined by the United States Food and Drug Administration to be interchangeable with a specific reference biological product. Allows the board of pharmacy to adopt rules. Provides that a written or electronic prescription for a biological product must comply with the existing prescription form requirements. (The introduced version of this bill was prepared by the health finance commission.)

Effective: July 1, 2014.

Hersman, Grooms, Breaux
(HOUSE SPONSORS — CLERE, DAVISSON, CANDELARIA REARDON, SHACKLEFORD)

January 13, 2014, read first time and referred to Committee on Health and Provider Services.
January 27, 2014, read second time, ordered engrossed.

HOUSE ACTION
February 10, 2014, read first time and referred to Committee on Public Health.
February 20, 2014, reported — Do Pass.

ES 262—LS 6278/DI 104
ENGROSSED
SENATE BILL No. 262

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-35.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 35.8. "Biological product", for purposes of IC 16-42-25, has the meaning set forth in IC 16-42-25-1.

SECTION 2. IC 16-18-2-36.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 36.2. "Biosimilar", for purposes of IC 16-42-25, has the meaning set forth in IC 16-42-25-2.

SECTION 3. IC 16-18-2-191.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 191.2. "Interchangeable", for purposes of IC 16-42-25, has the meaning set forth in IC 16-42-25-3.

SECTION 4. IC 16-18-2-288 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 288. (a) "Practitioner",

ES 262—LS 6278/DI 104
for purposes of IC 16-42-19, has the meaning set forth in IC 16-42-19-5.

(b) "Practitioner", for purposes of IC 16-41-14, has the meaning set forth in IC 16-41-14-4.

(c) "Practitioner", for purposes of IC 16-42-21, has the meaning set forth in IC 16-42-21-3.

(d) "Practitioner", for purposes of IC 16-42-22 and IC 16-42-25, has the meaning set forth in IC 16-42-22-4.5.

SECTION 5. IC 16-42-22-8, AS AMENDED BY P.L.204-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) For substitution to occur for a prescription other than a prescription filled under the Medicaid program (42 U.S.C. 1396 et seq.), the children's health insurance program established under IC 12-17.6-2, the biosimilar biological products requirements under IC 16-42-25, or the Medicare program (42 U.S.C. 1395 et seq.), the children's health insurance program established under IC 12-17.6-2, the biosimilar biological products requirements under IC 16-42-25, or the Medicare program (42 U.S.C. 1395 et seq.):

(1) the practitioner must:
   (A) sign on the line under which the words "May substitute" appear; or
   (B) for an electronically transmitted prescription, electronically transmit the instruction "May substitute."; and

(2) the pharmacist must inform the customer of the substitution.

(b) This section does not authorize any substitution other than substitution of a generically equivalent drug product.

SECTION 6. IC 16-42-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 25. Drugs: Biosimilar Biological Products

Sec. 1. As used in this chapter, "biological product" means:

(1) a virus;
(2) a therapeutic serum;
(3) a toxin;
(4) an antitoxin;
(5) a vaccine;
(6) blood;
(7) a blood component;
(8) a blood derivative;
(9) an allergenic product;
(10) a protein (except any chemically synthesized polypeptide);
(11) a product analogous to a product described in subdivisions (1) through (10);
(12) arsphenamine;
(13) an arsphenamine derivative; or
(14) any other trivalent organic arsenic compound;
applicable to the prevention, treatment, or cure of a disease or
condition for human beings.
Sec. 2. As used in this chapter, "biosimilar" refers to a
biological product that:
(1) has been licensed as a biosimilar product under 41 U.S.C.
262(k) or has been approved based on an application filed
under 21 U.S.C. 355(b)(2); and
(2) is highly similar to the reference product, with:
(A) no clinically meaningful differences between the
biological product and the reference product in terms of
safety, purity, and potency of the product; and
(B) only minor differences in clinically inactive
components.
Sec. 3. As used in this chapter, "interchangeable" means:
(1) a determination by the federal Food and Drug
Administration that a biosimilar product may be substituted
for a reference biological product without the intervention of
the health care provider that prescribed the biological
product; or
(2) concerning a biological product filed under 21 U.S.C.
355(b)(2), a product that is designated as therapeutically
equivalent by the federal Food and Drug Administration in
the Approved Drug Products with Therapeutic Equivalence
Evaluations.
Sec. 4. A pharmacist may substitute for a prescribed biological
product if the following conditions are met:
(1) The substitute has been determined by the federal Food
and Drug Administration to be interchangeable with the
prescribed biological product.
(2) The prescribing practitioner has:
(A) for a written prescription, signed on the line under
which the words "May substitute." appear; or
(B) for an electronically transmitted prescription,
electronically transmitted the instruction "May
substitute.".
(3) The pharmacist has informed the customer of the
substitution.
Sec. 5. (a) Except as provided in subsection (b), in order to
ensure medical records are complete and accurate, a pharmacist
shall, not later than ten (10) calendar days after dispensing a
biologic product, record the name and manufacturer of the biologic product dispensed using:

(1) an interoperable electronic health records system shared with the prescribing practitioner, to the extent a system is in place between the pharmacist and the practitioner; or

(2) if an electronic health records system is not in place between the pharmacist and the prescribing practitioner, any prevailing means available to communicate to the prescribing practitioner the name and manufacturer of the biologic product dispensed.

(b) The pharmacist is not required to report to or communicate with the prescribing practitioner under subsection (a)(2) if:

(1) there is no federal Food and Drug Administration approved interchangeable biological product for the prescribed biological product; or

(2) the refill prescription is not changed from the product originally dispensed.

Sec. 6. (a) The pharmacy shall retain a record in accordance with IC 25-26-13-25(a) of the dispensed biological product.

(b) The prescribing practitioner shall retain a record in accordance with IC 16-39-7-1 of the dispensed biological product.

Sec. 7. (a) The Indiana board of pharmacy shall maintain a link on the board's Internet web site to the current list of all biological products determined by the United States Food and Drug Administration to be interchangeable with a specific reference biological product.

(b) The Indiana board of pharmacy may adopt rules under IC 4-22-2 necessary to implement this chapter.

Sec. 8. A written or electronic prescription for a biological product must comply with the requirements under IC 16-42-22-6.
AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PHARMACISTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 25, Subchapter VI, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

CHAPTER 25. PHARMACY

Subchapter I. Objectives; Definitions; Board of Pharmacy

§ 2502. Definitions.

The following words, terms, and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

“Biological product” means a biological product as defined in subsection (i) of section 351 of the Public Health Service Act 42 U.S.C. § 262(i).

“Interchangeable” means a biological product licensed by the Federal Food and Drug Administration pursuant to 42 U.S.C. § 262(k)(4).

“Reference Product” means a product as defined by the Federal Food and Drug Administration pursuant to 42 U.S.C. § 262.

“Substitution” or “substitute” means pharmacists selection of prescriber authorized generic or therapeutically equivalent prescription medications or, in the case of biologicals, pharmacist selection of an interchangeable biological product in place of the prescribed product. Generic substitution means a drug that is the same active ingredient, equivalent in strength to the strength written on the prescription and which is classified as being therapeutically equivalent to another drug in the latest edition or supplement of the Federal Food and Drug Administration (FDA) Approved Drug Products with Therapeutic Equivalence Evaluations, sometimes referred to as the "Orange Book.”

§ 2549A. Dispensing and Substitution of Biological Products

(a) A pharmacist may substitute for a prescribed biological product only if:

(1) the practitioner has not expressly prohibited substitution in a manner specified in §2549;

(2) the product to be substituted has been designated by the Federal Food and Drug Administration as interchangeable with or therapeutically equivalent to the prescribed product;

(3) the pharmacist informs the patient or the patient's adult representative that an interchangeable biological product has been dispensed; and

(4) the pharmacist indicates on the prescription and on the prescription label the name of the manufacturer of the interchangeable biological product substituted unless the practitioner indicates otherwise.

(b) If a biological product is dispensed, the pharmacist or the pharmacist’s designee shall, within a reasonable time but not to exceed ten days following dispensing, communicate to the practitioner the name and manufacturer of the biological product dispensed, by:

(1) recording such information in an interoperable electronic health records system shared with the prescribing practitioner, to the extent such a system is in place between a pharmacist and practitioner; or

(2) in the case where electronic health records are not in place between a pharmacist and a practitioner, communicating such information to the practitioner using any prevailing means available. No communication is required under this subsection where there is no interchangeable or therapeutically equivalent biological product for the prescribed biological product, or where a refill prescription is not changed from the biological product originally dispensed.

(c) The pharmacy shall maintain a record of the biological product dispensed as required in §2532.

(d) The Board of Pharmacy shall maintain a link on its web site to the current list of all biological products determined by the Federal Food and Drug Administration to be interchangeable with a specific biological product.

(e) Hospital pharmacies shall be exempt from the requirements of subsection (b) of this section.

Approved May 28, 2014
CHAPTER 412

An Act to amend and reenact §§ 54.1-3401, 54.1-3434.1, and 54.1-3457 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-3408.04, relating to dispensing of interchangeable biosimilar biological products.

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3401, 54.1-3434.1, and 54.1-3457 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-3408.04 as follows:

§ 54.1-3401. Definitions.
As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroyepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in
expectation of receiving a valid prescription based on observed prescribing patterns; (ii) by or for a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or A 19 of §54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of §54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1.

"DEA" means the Drug Enforcement Administration, United States U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; or (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic transmission prescription" means any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly to a pharmacy without interception or intervention from a third party from a practitioner authorized to prescribe or from one pharmacy to another pharmacy.

"Facsimile (FAX) prescription" means a written prescription or order, which that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the United States U.S. Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoïds, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability
needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with
genus Cannabis.
the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and
seeds of such plant, unless such stalks, fiber, oil
include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the
seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the
genus Cannabis.
"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to
the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and
needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with
no medicinal properties which that are used for the operation and cleaning of medical equipment and
solutions for peritoneal dialysis.
"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction
from substances of vegetable origin, or independently by means of chemical synthesis, or by a
combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,
or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof
which is chemically equivalent or identical with any of the substances referred to in clause (i), but not
including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and
any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer,
derivative, or preparation thereof which is chemically equivalent or identical with any of these
substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain
cocaine or ecodeine.
"New drug" means: (i) any drug, except a new animal drug or an animal feed bearing or containing
a new animal drug, the composition of which is such that such drug is not generally recognized, among
experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs,
as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling,
except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior
to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as
amended, and if at such time its labeling contained the same representations concerning the conditions
of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new
animal drug, the composition of which is such that such drug, as a result of investigations to determine
its safety and effectiveness for use under such conditions, has become so recognized, but which has not,
otherwise than in such investigations, been used to a material extent or for a material time under such
conditions.
"Nuclear medicine technologist" means an individual who holds a current certification with the
American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification
Board.
"Official compendium" means the official United States Pharmacopoeia National Formulary, official
Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.
"Official written order" means an order written on a form provided for that purpose by the United
States Drug Enforcement Administration, under any laws of the United States making provision
therefor, if such order forms are authorized and required by federal law, and if no such order form is
provided then on an official form provided for that purpose by the Board of Pharmacy.
"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to
morphine or being capable of conversion into a drug having such addiction-forming or
addiction-sustaining liability. It does not include, unless specifically designated as controlled under
Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
(dextromethorphan). It does include its racemic and levorotatory forms.
"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.
"Original package" means the unbroken container or wrapping in which any drug or medicine is
pursuant to 42 U.S.C. § 262(k)(4).
"Label" means a display of written, printed, or graphic matter upon the immediate container of any
article. A requirement made by or under authority of this chapter that any word, statement, or other
information appear on the label shall not be considered to be complied with unless such word,
statement, or other information also appears on the outside container or wrapper, if any, of the retail
package of such article, or is easily legible through the outside container or wrapper.
"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its
containers or wrappers, or accompanying such article.
"Manufacture" means the production, preparation, propagation, conversion, or processing of any item
regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or
independently by means of chemical synthesis, or by a combination of extraction and chemical
synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its
container. This term does not include compounding.
"Manufacturer" means every person who manufactures.
"Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or
its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its
seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids
unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana
include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the
seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the
independent by means of chemical synthesis, or by a combination of extraction and chemical
synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its
container. This term does not include compounding.
"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to
the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and
needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with
no medicinal properties which that are used for the operation and cleaning of medical equipment and
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from substances of vegetable origin, or independently by means of chemical synthesis, or by a
combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,
or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof
which is chemically equivalent or identical with any of the substances referred to in clause (i), but not
including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and
any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer,
derivative, or preparation thereof which is chemically equivalent or identical with any of these
substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain
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"New drug" means: (i) any drug, except a new animal drug or an animal feed bearing or containing
a new animal drug, the composition of which is such that such drug is not generally recognized, among
experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs,
as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling,
except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior
to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as
amended, and if at such time its labeling contained the same representations concerning the conditions
of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new
animal drug, the composition of which is such that such drug, as a result of investigations to determine
its safety and effectiveness for use under such conditions, has become so recognized, but which has not,
otherwise than in such investigations, been used to a material extent or for a material time under such
conditions.
"Nuclear medicine technologist" means an individual who holds a current certification with the
American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification
Board.
"Official compendium" means the official United States Pharmacopoeia National Formulary, official
Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.
"Official written order" means an order written on a form provided for that purpose by the United
States Drug Enforcement Administration, under any laws of the United States making provision
therefor, if such order forms are authorized and required by federal law, and if no such order form is
provided then on an official form provided for that purpose by the Board of Pharmacy.
"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to
morphine or being capable of conversion into a drug having such addiction-forming or
addiction-sustaining liability. It does not include, unless specifically designated as controlled under
Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
(dextromethorphan). It does include its racemic and levorotatory forms.
"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.
"Original package" means the unbroken container or wrapping in which any drug or medicine is
enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to, a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner, authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503 (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353 (b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug which that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug which that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning - may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the United States U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."


"Warehouser" means any person, other than a wholesale distributor, engaged in the business of selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means distribution of prescription drugs to persons other than consumers or patients, subject to the exceptions set forth in § 54.1-3401.1.

"Wholesale distributor" means any person engaged in wholesale distribution of prescription drugs including, but not limited to, manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses conducting wholesale distributions, and wholesale drug warehouses; independent wholesale
drug traders; and retail pharmacies conducting wholesale distributions. No person shall be subject to any state or local tax as a wholesale merchant by reason of this definition.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

§ 54.1-3408.04. Dispensing of interchangeable biosimilars permitted.
A. A pharmacist may dispense a biosimilar that has been licensed by the U.S. Food and Drug Administration as interchangeable with the prescribed product unless (i) the prescriber indicates such substitute is not authorized on the prescription "brand medically necessary" or (ii) the patient insists on the dispensing of the prescribed biological product. In the case of an oral prescription, the prescriber's oral dispensing instructions regarding dispensing of an interchangeable biosimilar shall be followed. No pharmacist shall dispense a biosimilar in place of a prescribed biological product unless the biosimilar has been licensed as interchangeable with the prescribed biological product by the U.S. Food and Drug Administration.
B. When a pharmacist dispenses an interchangeable biosimilar in the place of a prescribed biological product, the pharmacist or his designee shall inform the patient prior to dispensing the interchangeable biosimilar. The pharmacist or his designee shall also indicate, unless otherwise directed by the prescriber, on both the record of dispensing and the prescription label, the brand name or, in the case of an interchangeable biosimilar, the product name and the name of the manufacturer or distributor of the interchangeable biosimilar. Whenever a pharmacist substitutes an interchangeable biosimilar pursuant to a prescription written for a brand-name product, the pharmacist or his designee shall label the drug with the name of the interchangeable biosimilar followed by the words "Substituted for" and the name of the biological product for which the prescription was written. Records of substitutions of interchangeable biosimilars shall be maintained by the pharmacist and the prescriber for a period of not less than two years from the date of dispensing.
C. When a pharmacist dispenses an interchangeable biosimilar in the place of a prescribed biological product, the pharmacist or his designee shall provide electronic, written, or telephonic notification of the substitution to the prescriber or his staff within five business days of dispensing the interchangeable biosimilar or as set forth in a collaborative agreement as defined in § 54.1-3300.
D. Whenever a pharmacist or his designee dispenses an interchangeable biosimilar in the place of a prescribed biological product, the pharmacist or his designee shall provide the patient with retail cost information for both the prescribed biological product and the interchangeable biosimilar. For the purposes of this subsection, "retail cost" means the actual cost to be paid by a retail purchaser to a pharmacy for a drug at the prescribed dosage and amount.

§ 54.1-3434.1. Nonresident pharmacies to register with Board.
A. Any pharmacy located outside the Commonwealth that ships, mails, or delivers, in any manner, Schedule II through VI drugs or devices pursuant to a prescription into the Commonwealth shall be considered a nonresident pharmacy, shall be registered with the Board, shall designate a pharmacist in charge who is licensed as a pharmacist in Virginia and is responsible for the pharmacy’s compliance with this chapter, and shall disclose to the Board all of the following:
1. The location, names, and titles of all principal corporate officers and the name and Virginia license number of the designated pharmacist in charge, if applicable. A report containing this information shall be made on an annual basis and within 30 days after any change of office, corporate officer, or pharmacist in charge.
2. That it maintains, at all times, a current unrestricted license, permit, certificate, or registration to conduct the pharmacy in compliance with the laws of the jurisdiction, within the United States or within another jurisdiction that may lawfully deliver prescription drugs directly or indirectly to consumers within the United States, in which it is a resident. The pharmacy shall also certify that it complies with all lawful directions and requests for information from the regulatory or licensing agency of the jurisdiction in which it is licensed as well as with all requests for information made by the Board pursuant to this section.
3. As a prerequisite to registering with the Board, the nonresident pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the jurisdiction in which it is located. The inspection report shall be deemed current if the inspection was conducted within the past five years. However, if the nonresident pharmacy has not been inspected by the regulatory or licensing agency of the jurisdiction in which it is licensed within the past five years, the Board may accept an inspection report or other documentation from another entity that is satisfactory to the Board or the Board may cause an inspection to be conducted by its duly authorized agent and may charge an inspection fee in an amount sufficient to cover the costs of the inspection.
4. For a nonresident pharmacy that dispenses more than 50 percent of its total prescription volume pursuant to an original prescription order received as a result of solicitation on the Internet, including the solicitation by electronic mail, that it is credentialed and has been inspected and that it has received
certification from the National Association of Boards of Pharmacy that it is a Verified Internet Pharmacy Practice Site, or has received certification from a substantially similar program approved by the Board. The Board may, in its discretion, waive the requirements of this subdivision for a nonresident pharmacy that only does business within the Commonwealth in limited transactions.

5. That it maintains its records of prescription drugs or dangerous drugs or devices dispensed to patients in the Commonwealth so that the records are readily retrievable from the records of other drugs dispensed and provides a copy or report of such dispensing records to the Board, its authorized agents, or any agent designated by the Superintendent of the Department of State Police upon request within seven days of receipt of a request.

6. That its pharmacists do not knowingly fill or dispense a prescription for a patient in Virginia in violation of § 54.1-3303 and that it has informed its pharmacists that a pharmacist who dispenses a prescription that he knows or should have known was not written pursuant to a bona fide practitioner-patient relationship is guilty of unlawful distribution of a controlled substance in violation of § 18.2-248.

7. That it maintains a continuous quality improvement program as required of resident pharmacies, pursuant to § 54.1-3434.03.

The requirement that a nonresident pharmacy have a Virginia licensed pharmacist in charge shall not apply to a registered nonresident pharmacy that provides services as a pharmacy benefits administrator.

B. Any pharmacy subject to this section shall, during its regular hours of operation, but not less than six days per week, and for a minimum of 40 hours per week, provide a toll-free telephone service to facilitate communication between patients in the Commonwealth and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number shall be disclosed on a label affixed to each container of drugs dispensed to patients in the Commonwealth.

C. Pharmacies subject to this section shall comply with the reporting requirements of the Prescription Monitoring Program as set forth in § 54.1-2521.

D. The registration fee shall be the fee specified for pharmacies within Virginia.

E. A nonresident pharmacy shall only deliver controlled substances that are dispensed pursuant to a prescription, directly to the consumer or his designated agent, or directly to a pharmacy located in Virginia pursuant to regulations of the Board.

F. Pharmacies subject to this section shall comply with the requirements set forth in § 54.1-3408.04 relating to dispensing of an interchangeable biosimilar in the place of a prescribed biological product.

§ 54.1-3457. Prohibited acts.
The following acts shall be prohibited:

1. The manufacture, sale, or delivery, holding, or offering for sale of any drug, device, or cosmetic that is adulterated or misbranded.

2. The adulteration or misbranding of any drug, device, or cosmetic.

3. The receipt in commerce of any drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

4. The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of § 54.1-3421.

5. The dissemination of any false advertisement.

6. The refusal to permit entry or inspection, or to permit the taking of a sample, or to permit access to or copying of any record.

7. The giving of a false guaranty or undertaking.

8. The removal or disposal of a detained article in violation of § 54.1-3459.

9. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being adulterated or misbranded.

10. The forging, counterfeiting, simulating, or falsely representing, or without proper authority using of any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of this chapter or of the federal act.

11. The using by any person to his own advantage, or revealing, other than to the Board or its authorized representative or to the courts when relevant in any judicial proceeding under this chapter of any information acquired under authority of this chapter concerning any method or process which as a trade secret is entitled to protection.

12. The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under § 54.1-3421, or that such drug complies with the provisions of such section.

13. In the case of a drug distributed or offered for sale in this Commonwealth, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer such drug who makes written request for information as to such drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the federal act. This subdivision shall not be construed to exempt any person from any labeling requirement imposed by
or under other provisions of this chapter.

14. Placing or causing to be placed upon any drug or device or container, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing; or selling, dispensing, disposing of, or causing to be sold, dispensed, or disposed of, or concealing or keeping in possession, control, or custody, with intent to sell, dispense, or dispose of, any drug, device, or any container thereof, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by this section or making, selling, disposing of, or causing to be made, sold, or disposed of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit drug.

15. The doing of any act which causes a drug to be a counterfeit drug, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit drug.

16. Dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the permission of the person ordering or prescribing, except as provided in § 54.1-3408.03 relating to dispensing of therapeutically equivalent drugs.

17. Dispensing or causing to be dispensed a biosimilar in place of a prescribed biological product or brand of biological product, except as provided in § 54.1-3408.04 related to dispensing of interchangeable biosimilars.

2. That the provisions of subsections C and D of § 54.1-3408.04 as added by this act shall expire on July 1, 2015.
LONG TITLE

General Description:

This bill amends the Pharmacy Practice Act to allow the substitution of interchangeable biosimilar products in the place of prescribed biological products.

Highlighted Provisions:

This bill:

- allows a pharmacist or pharmacy intern dispensing a prescription to substitute a biosimilar product in the place of a prescribed biological product if:
  - the United States Food and Drug Administration (FDA) has determined that the biosimilar product is interchangeable with the prescribed product;
  - the interchangeable biosimilar product is approved to move through interstate commerce;
  - the prescribing practitioner has not prohibited the substitution; and
  - the substitution is not prohibited by law;
- requires out-of-state mail pharmacies substituting interchangeable biosimilar products in the place of prescribed biological products to notify the patient and to keep records of the substitution;
- prohibits the substitution of a biosimilar product for the prescribed biological product without the prescriber’s authorization unless the FDA has determined the biosimilar product to be interchangeable with the prescribed biological product;
- assigns no greater liability to a pharmacist or pharmacy intern who substitutes an interchangeable biosimilar product in the place of a prescribed biological product than would be incurred without the substitution;
sets forth that a prescriber can prohibit the substitution of a biological product with an interchangeable biosimilar product orally or in writing;

estimates requirements for the substitution of a biological product with an interchangeable biosimilar product relating to:

- labeling;
- patient notification; and
- record keeping; and

makes technical changes.

Money Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:
AMENDS:
58-17b-102, as last amended by Laws of Utah 2012, Chapters 265 and 320
58-17b-605, as last amended by Laws of Utah 2008, Chapter 205
63I-2-258, as last amended by Laws of Utah 2012, Chapters 88 and 369

ENACTS:
58-17b-605.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:
Section 1. Section 58-17b-102 is amended to read:
58-17b-102. Definitions.
In addition to the definitions in Section 58-1-102, as used in this chapter:
(1) "Administering" means:
(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or
(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(24) (a) "Drug" means:
(i) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;
(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;
(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and
(iv) substances intended for use as a component of any substance specified in Subsections (24)(a)(i), (ii), (iii), and (iv).

(b) "Drug" does not include dietary supplements.

(25) "Drug product equivalent" means a drug product that is designated as the therapeutic equivalent of another drug product in the Approved Drug Products with Therapeutic Equivalence Evaluations prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration.

(26) "Drug regimen review" includes the following activities:
(a) evaluation of the prescription drug order and patient record for:
(i) known allergies;
(ii) rational therapy-contraindications;
(iii) reasonable dose and route of administration; and
(iv) reasonable directions for use;
rule to be dispensed only by prescription or is restricted to administration only by practitioners.

[(64)] [(63)] "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

[(65)] [(64)] "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

[(66)] [(65)] "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

[(67)] [(66)] "Supportive personnel" means unlicensed individuals who:

- (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

- (b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

[(68)] [(67)] "Unlawful conduct" is as defined in Sections 58-1-501 and 58-17b-501.

[(69)] [(68)] "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

[(70)] [(69)] "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 2. Section **58-17b-605** is amended to read:

**58-17b-605. Drug product equivalents.**

(1) For the purposes of this section:

- (a) (i) "Drug" is as defined in Section 58-17b-102.

- (ii) "Drug" does not mean a "biological product" as defined in Section 58-17b-605.5.

- (b) "Drug product equivalent" means a drug product that is designated as the therapeutic equivalent of another drug product in the Approved Drug Products with
394 Therapeutic Equivalence Evaluations prepared by the Center for Drug Evaluation and Research
395 of the United States Food and Drug Administration.

[4(1)](2) A pharmacist or pharmacy intern dispensing a prescription order for a specific
drug by brand or proprietary name may substitute a drug product equivalent[, as defined in
Section 58-17b-102,] for the prescribed drug only if:

(a) the purchaser specifically requests or consents to the substitution of a drug product
equivalent;
(b) the drug product equivalent is of the same generic type and is designated the
therapeutic equivalent in the approved drug products with therapeutic equivalence evaluations
prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug
Administration;
(c) the drug product equivalent is permitted to move in interstate commerce;
(d) the pharmacist or pharmacy intern counsels the patient on the use and the expected
response to the prescribed drug, whether a substitute or not, and the substitution is not
otherwise prohibited by this chapter;
(e) the prescribing practitioner has not indicated that a drug product equivalent may not
be substituted for the drug, as provided in Subsection [5(5)](6); and
(f) the substitution is not otherwise prohibited by law.

[(2)](3) (a) Each out-of-state mail service pharmacy dispensing a drug product
equivalent as a substitute for another drug into this state shall notify the patient of the
substitution either by telephone or in writing.
(b) Each out-of-state mail service pharmacy shall comply with the requirements of this
chapter with respect to a drug product equivalent substituted for another drug, including
labeling and record keeping.

[(3)](4) Pharmacists or pharmacy interns may not substitute without the prescriber's
authorization on trade name drug product prescriptions unless the product is currently
categorized in the approved drug products with therapeutic equivalence evaluations prepared
by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration
as a drug product considered to be therapeutically equivalent to another drug product.

[(4)] (5) A pharmacist or pharmacy intern who dispenses a prescription with a drug product equivalent under this section assumes no greater liability than would be incurred had the pharmacist or pharmacy intern dispensed the prescription with the drug product prescribed.

[(5)] (6) (a) If, in the opinion of the prescribing practitioner, it is in the best interest of the patient that a drug product equivalent not be substituted for a prescribed drug, the practitioner may indicate a prohibition on substitution either by writing "dispense as written" or signing in the appropriate space where two lines have been preprinted on a prescription order and captioned "dispense as written" or "substitution permitted".

(b) If the prescription is communicated orally by the prescribing practitioner to the pharmacist or pharmacy intern, the practitioner shall indicate the prohibition on substitution and that indication shall be noted in writing by the pharmacist or pharmacy intern with the name of the practitioner and the words "orally by" and the initials of the pharmacist or pharmacy intern written after it.

[(6)] (7) A pharmacist or pharmacy intern who substitutes a drug product equivalent for a prescribed drug shall communicate the substitution to the purchaser. The drug product equivalent container shall be labeled with the name of the drug dispensed, and the pharmacist, pharmacy intern, or pharmacy technician shall indicate on the file copy of the prescription both the name of the prescribed drug and the name of the drug product equivalent dispensed in its place.

[(7)] (8) (a) For purposes of this Subsection [(7)] (8), "substitutes" means to substitute:

(i) a generic drug for another generic drug;

(ii) a generic drug for a nongeneric drug;

(iii) a nongeneric drug for another nongeneric drug; or

(iv) a nongeneric drug for a generic drug.

(b) A prescribing practitioner who makes a finding under Subsection [(5)] (6)(a) for a patient with a seizure disorder shall indicate a prohibition on substitution of a drug product equivalent in the manner provided in Subsection [(5)] (6)(a) or (b).
(c) Except as provided in Subsection [(7)] [(8)] (d), a pharmacist or pharmacy intern who cannot dispense the prescribed drug as written, and who needs to substitute a drug product equivalent for the drug prescribed to the patient to treat or prevent seizures shall notify the prescribing practitioner prior to the substitution.

(d) Notification under Subsection [(7)] [(8)] (c) is not required if the drug product equivalent is paid for in whole or in part by Medicaid.

[(8)] [(9)] Failure of a licensed medical practitioner to specify that no substitution is authorized does not constitute evidence of negligence.

Section 3. Section 58-17b-605.5 is enacted to read:

**58-17b-605.5. Interchangeable biosimilar products.**

(1) For the purposes of this section:

(a) "biological product" is as defined in 21 U.S.C. Sec. 262;

(b) "biosimilar" is as defined in 21 U.S.C. Sec. 262; and

(c) "interchangeable" is as defined in 21 U.S.C. Sec. 262.

(2) A pharmacist or pharmacy intern dispensing a prescription order for a specific biological product by brand or proprietary name may substitute a biosimilar product for the prescribed biological product only if:

(a) the purchaser specifically requests or consents to the substitute of an interchangeable biosimilar product;

(b) the biosimilar product has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed biological product;

(c) the interchangeable biosimilar product is permitted to move in interstate commerce;

(d) the pharmacist or pharmacy intern counsels the patient on the use and the expected response to the prescribed biological product, whether a substitute or not, and the substitution is not otherwise prohibited by this chapter;

(e) the prescribing practitioner has not prohibited the substitution of an interchangeable biosimilar product for the prescribed biological product, as provided in Subsection (6); and

(f) the substitution is not otherwise prohibited by law.
(3) (a) Each out-of-state mail service pharmacy dispensing an interchangeable biosimilar product as a substitute for another biological product into this state shall notify the patient of the substitution either by telephone or in writing.

(b) Each out-of-state mail service pharmacy shall comply with the requirements of this chapter with respect to an interchangeable biosimilar product substituted for another biological product, including labeling and record keeping.

(4) Pharmacists or pharmacy interns may not substitute without the prescriber’s authorization biological product prescriptions unless the product has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed biological product.

(5) A pharmacist or pharmacy intern who dispenses a prescription with an interchangeable biosimilar product under this section assumes no greater liability than would be incurred had the pharmacist or pharmacy intern dispensed the prescription with the biological product.

(6) (a) If, in the opinion of the prescribing practitioner, it is in the best interest of the patient that an interchangeable biosimilar product not be substituted for a prescribed biological product, the practitioner may prohibit a substitution either by writing "dispense as written" or by signing in the appropriate space where two lines have been preprinted on a prescription order and captioned "dispense as written" or "substitution permitted."

(b) (i) If the prescription is communicated orally by the prescribing practitioner to the pharmacist or pharmacy intern, the practitioner shall direct the prohibition or substitution.

(ii) The pharmacist or pharmacy intern shall make a written note of the practitioner’s direction by writing the name of the practitioner and the words "orally by" and the initials of the pharmacist or pharmacy intern written after it.

(7) A pharmacist or pharmacy intern who substitutes an interchangeable biosimilar product for a prescribed biological product shall communicate the substitution to the purchaser. The interchangeable biosimilar product container shall be labeled with the name of the interchangeable biosimilar product dispensed, and the pharmacist, pharmacy intern, or
pharmacy technician shall indicate on the file copy of the prescription both the name of the
prescribed biological product and the name of the interchangeable biosimilar product dispensed
in its place.

(8) (a) A pharmacist or pharmacy intern who substitutes an interchangeable biosimilar
product for a prescribed biological product shall:

(i) notify the prescriber in writing, by fax, telephone, or electronic transmission of the
substitution, as soon as practicable, but not later than three business days after dispensing the
interchangeable biosimilar product in place of the prescribed biological product; and

(ii) include the name and manufacturer of the interchangeable biosimilar product
substituted.

(b) This subsection is repealed on May 15, 2015.

Section 4. Section 63I-2-258 is amended to read:

63I-2-258. Repeal dates -- Title 58.

(1) Subsection 58-72-201(1)(b) is repealed July 1, 2014.

(2) Subsection 58-17b-605.5(8) is repealed on May 15, 2015.
Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 689.

SECTION 2. (1) As used in this section:

(a) “Biological product” means, with respect to the prevention, treatment or cure of a disease or condition of human beings, a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component, blood derivative, allergenic product, protein other than a chemically synthesized polypeptide, analogous products or arsphenamine or any other trivalent organic arsenic compound.

(b) “Biosimilar product” means a biological product licensed by the United States Food and Drug Administration pursuant to 42 U.S.C. 262(k)(3)(A)(i).

(c) “Interchangeable” means, in reference to a biological product, that the United States Food and Drug Administration has determined that a biosimilar product meets the safety standards set forth in 42 U.S.C. 262(k)(4).

(d) “Reference biological product” means the biological product licensed pursuant to 42 U.S.C. 262(a) against which a biological product is evaluated in an application submitted to the United States Food and Drug Administration for licensure of a biological product as a biosimilar product or for determination that a biosimilar product is interchangeable.

(2) A pharmacy or pharmacist filling a prescription order for a biological product may not substitute a biosimilar product for the prescribed biological product unless:

(a) The biosimilar product has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed biological product;

(b) The prescribing practitioner has not designated on the prescription that substitution is prohibited;

(c) The patient for whom the biological product is prescribed is informed of the substitution prior to dispensing the biosimilar product;

(d) The pharmacy or pharmacist provides written, electronic or telephonic notification of the substitution to the prescribing practitioner or the prescribing practitioner’s staff within three business days of dispensing the biosimilar product; and

(e) The pharmacy or pharmacist retains a record of the substitution for a period of not less than three years.
The State Board of Pharmacy shall post and regularly update on a website maintained by the board a list of biosimilar products determined by the United States Food and Drug Administration to be interchangeable.

SECTION 3. (1) Section 2 of this 2013 Act becomes operative on January 1, 2014.

(2) The State Board of Pharmacy may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the board by section 2 of this 2013 Act.

SECTION 4. Section 2 of this 2013 Act is amended to read:

Sec. 2. (1) As used in this section:

(a) “Biological product” means, with respect to the prevention, treatment or cure of a disease or condition of human beings, a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component, blood derivative, allergenic product, protein other than a chemically synthesized polypeptide, analogous products or arsphenamine or any other trivalent organic arsenic compound.

(b) “Biosimilar product” means a biological product licensed by the United States Food and Drug Administration pursuant to 42 U.S.C. 262(k)(3)(A)(i).

(c) “Interchangeable” means, in reference to a biological product, that the United States Food and Drug Administration has determined that a biosimilar product meets the safety standards set forth in 42 U.S.C. 262(k)(4).

(d) “Reference biological product” means the biological product licensed pursuant to 42 U.S.C. 262(a) against which a biological product is evaluated in an application submitted to the United States Food and Drug Administration for licensure of a biological product as a biosimilar product or for determination that a biosimilar product is interchangeable.

(2) A pharmacy or pharmacist filling a prescription order for a biological product may not substitute a biosimilar product for the prescribed biological product unless:

(a) The biosimilar product has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed biological product;

(b) The prescribing practitioner has not designated on the prescription that substitution is prohibited;

(c) The patient for whom the biological product is prescribed is informed of the substitution prior to dispensing the biosimilar product; and

(d) The pharmacy or pharmacist retains a record of the substitution for a period of not less than three years.

(3) The State Board of Pharmacy shall post and regularly update on a website maintained by the board a list of biosimilar products determined by the United States Food and Drug Administration to be interchangeable.

SECTION 5. The amendments to section 2 of this 2013 Act by section 4 of this 2013 Act become operative on January 1, 2016.

SECTION 6. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.
The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to the substitution of interchangeable biosimilars.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1 Section 1 of chapter 6D, as appearing in the 2012 Official Edition of the General Laws, is hereby amended in line 116 by inserting after the word “psychiatric,” the following word:- pharmaceutical,

SECTION 2 Section 1 of said chapter 6D, as so appearing, is hereby further amended by striking out in line 211 the word “services.” and inserting in place thereof the following words:- services, including pharmacy services.

SECTION 3 Section 1 of chapter 12C of the General Laws as so appearing, is hereby amended by striking out in line 210 the word “services.” and inserting in place thereof the following words:- services, including pharmacy services.

SECTION 4 Chapter 112 of the General Laws as so appearing, is hereby amended by inserting after Section 12DD the following new section:-

Section 12D ½ . Biosimilar products.-

(a). As used in this section, the following words shall have the following meanings:

“Biological product”, means a virus, therapeutic serum, toxin, antitoxin, blood, blood component or derivative, allergenic product, protein (except any chemically synthesized polypeptide), or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings
“Biosimilar” or “Biosimilarity”, means a biological product that is highly similar to the prescribed biologic product and is the subject of an approved application under subsection (k) of 42 U.S.C. 262 or subsection (b)(2) of 21 U.S.C. 355,

“Department”, the department of public health.

“Interchangeable biological product”, means a prescription biological product that has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed brand name biological product pursuant to Section 351 of the Public Health Service Act (42 U.S.C. 262) or that has been approved under 21 U.S.C. 355 (b)(2) and determined by the FDA to be therapeutically equivalent to the prescribed brand name Biological product.

“Practitioner”, a physician, dentist, veterinarian, podiatrist, scientific investigator or other person registered to distribute, dispense, conduct research with respect to, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in the commonwealth.

“Prescription”, with respect to a biological product, means an order for a product that is subject to Section 503(b) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 353(b)).

(b). A biosimilar product determined to be interchangeable by the United States Food and Drug Administration (FDA) shall be available for substitution in the Commonwealth, in accordance with the provisions of this Act, Chapter 94 of the General Laws and any other applicable laws.

(c). Except as provided in subsection (d), a pharmacist filling a prescription for a biological product prescribed by its trade or brand name may substitute any biosimilar product that the FDA has determined to be interchangeable with the prescribed product.

(d). The pharmacist shall not substitute a biosimilar product that is interchangeable with the prescribed product if the prescriber instructs otherwise, either orally or in writing, pursuant to this section. Such instruction shall be on a patient-specific basis.

(e). No additional restrictions, limitations or requirements shall be imposed.
related to biological product substitution unless such restrictions, limitations or
requirements also

apply in the case of all other drug product substitution

(f). Within a reasonable time following any substitution, the dispensing pharmacist or the
pharmacist’s designee shall notify the prescribing practitioner of the substitution. Said
notification shall not be required until full interoperability of electronic health records systems is
reached, pursuant to section 7 of chapter 118I as inserted by section 134 of chapter 224 of the
acts of 2012. Entry of the substitution in the patient’s electronic health record shall constitute
notification

(g). Following any substitution, the dispensing pharmacist or the pharmacist’s designee
shall notify the patient, or the patients authorized representative, of the substitution. Such
notification shall be written and may be conveyed by, facsimile, electronic transmission, a
notation in the patients record system shared with the prescriber, or other means consistent with
prevailing pharmacy practice in accordance with section 12D of Chapter 112 of Massachusetts
General Law

(h). Upon full interoperability of electronic health records systems, pursuant to section 7
of chapter 118I as inserted by section 134 of Chapter 224 of the Acts of 2012, the dispensing
pharmacist or the pharmacist’s designee, the prescribing provider and administering practitioner
shall retain a record of any substitution for no less than one year from the date of the last entry in
the profile record, of any interchangeable biological product dispensed on the patient’s electronic
health record. Entry in the electronic health record shall constitute retention of record. Nothing in
this subsection shall limit the application of the Professional Standards for Registered
Pharmacists, Pharmacies and Pharmacy Departments as promulgated by the board of registration
in pharmacy.

SECTION 5  Section 1 of chapter 118I of the General Laws, as so appearing, is hereby
amended by inserting after the ninth paragraph the following paragraph:- “Provider”, any person,
corporation, partnership, governmental unit, state institution or any other entity qualified under
the laws of the commonwealth to perform or provide health care services, including pharmacy
services.
An Act To Improve Access to Oral Health Care

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §3174-XX is enacted to read:

§3174-XX. Dental hygiene therapy reimbursement

1. Reimbursement. By October 1, 2015, the department shall provide for the reimbursement under the MaineCare program of dental hygiene therapists practicing as authorized under Title 32, chapter 16, subchapter 3-C for the procedures identified in their scope of practice. Reimbursement must be provided to dental hygiene therapists directly or to a federally qualified health center pursuant to section 3174-V when a dental hygiene therapist is employed as a core provider at the center.

2. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 2. 24 MRSA §2317-B, sub-§19, as enacted by PL 1999, c. 256, Pt. M, §10, is amended to read:

19. Title 24-A, chapter 67. Medicare supplement insurance policies, Title 24-A, chapter 67; and

Sec. 3. 24 MRSA §2317-B, sub-§20, as amended by PL 2003, c. 428, Pt. G, §1, is further amended to read:

20. Title 24-A, chapters 68 and 68-A. Long-term care insurance, nursing home care insurance and home health care insurance, Title 24-A, chapters 68 and 68-A; and

Sec. 4. 24 MRSA §2317-B, sub-§21 is enacted to read:

21. Title 24-A, sections 2765-A and 2847-U. The practice of dental hygiene by a dental hygiene therapist, Title 24-A, sections 2765-A and 2847-U.
Sec. 5.  24-A MRSA §2765-A is enacted to read:

§2765-A. Coverage for services provided by dental hygiene therapist

1. Services provided by dental hygiene therapist. An insurer that issues individual dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by a dental hygiene therapist licensed under Title 32, chapter 16, subchapter 3-C when those services are covered services under the contract and when they are within the lawful scope of practice of the dental hygiene therapist.

2. Limits; coinsurance; deductibles. A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

3. Coordination of benefits with dental insurance. If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health insurance policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the insurer providing individual health insurance is the secondary payer.

4. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 6.  24-A MRSA §2847-U is enacted to read:

§2847-U. Coverage for services provided by dental hygiene therapist

1. Services provided by dental hygiene therapist. An insurer that issues group dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by a dental hygiene therapist licensed under Title 32, chapter 16, subchapter 3-C when those services are covered services under the contract and when they are within the lawful scope of practice of the dental hygiene therapist.

2. Limits; coinsurance; deductibles. A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

3. Coordination of benefits with dental insurance. If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health insurance policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the insurer providing group health insurance is the secondary payer.

Sec. 7.  32 MRSA c. 16, sub-c. 3-C is enacted to read:
SUBCHAPTER 3-C

DENTAL HYGIENE THERAPIST

§1094-AA. Dental hygiene therapist

A dental hygienist or independent practice dental hygienist licensed by the board pursuant to this chapter may practice as a licensed dental hygiene therapist to the extent permitted by this subchapter. To qualify for licensure under this subchapter as a dental hygiene therapist, a person shall apply to the board on forms provided by the board, pay the application fee under section 1094-DD and demonstrate to the board that the applicant:

1. **Licensure.** Possesses a valid license to practice dental hygiene or independent practice dental hygiene pursuant to this chapter or qualifies for licensure to practice by endorsement pursuant to section 1094-L;

2. **Educational program standards and requirements.** Has successfully completed a dental hygiene therapy education program that:
   
   A. Is accredited by the American Dental Association Commission on Dental Accreditation or a successor organization;
   
   B. Is a minimum of 4 semesters;
   
   C. Is consistent with the model curriculum for educating dental hygiene therapists adopted by the American Association of Public Health Dentistry, or a successor organization, is consistent with existing dental hygiene therapy programs in other states and is approved by the board; and
   
   D. Meets the requirements for dental hygiene therapy education programs adopted by the board;

3. **Bachelor of Science degree.** Has been awarded a Bachelor of Science degree in dental hygiene. In order to meet the requirements of this subsection, an applicant must hold at least an associate degree in dental hygiene before entering a dental hygiene therapy education program that meets the requirements of subsection 2, which may be completed concurrently or consecutively with a Bachelor of Science degree in dental hygiene;

4. **Examination.** Has passed a comprehensive, competency-based clinical examination approved by the board and administered independently of an institution providing dental hygiene therapy education and has passed an examination of the applicant's knowledge of Maine laws and rules relating to the practice of dentistry. An applicant who fails the clinical examination twice may not take the clinical examination again until further education and training, as specified by the board, are obtained; and

5. **Supervised clinical practice.** Has completed 2,000 hours of supervised clinical practice under the supervision of a dentist licensed under this chapter and in conformity with rules adopted by the board, during which supervised clinical practice the applicant holds a provisional dental hygiene therapy license pursuant to section 1094-BB. For
purposes of meeting the requirements of this subsection, an applicant's hours of supervised clinical experience while enrolled in the 4-semester dental training therapy program may be included.

§1094-BB. Provisional dental hygiene therapy license

The board shall issue a provisional dental hygiene therapy license to an applicant for licensure under this subchapter who has met the requirements of section 1094-AA, subsections 1 to 4 and rules adopted by the board and who has paid a fee established by the board of not more than $175. During the period of provisional licensure, which may not exceed 3 years, the applicant shall maintain in good standing the applicant's license to practice as a dental hygienist or an independent practice dental hygienist. During the period of provisional licensure the applicant may be compensated for services performed as a dental hygiene therapist.

§1094-CC. Dental coverage and reimbursement

Notwithstanding the requirements of Title 24-A, section 2752, any service performed by a dentist, dental assistant or dental hygienist licensed in this State that is reimbursed by private insurance, a dental service corporation, the MaineCare program under Title 22 or the Cub Care program under Title 22, section 3174-T must also be covered and reimbursed when performed by a dental hygiene therapist authorized to practice under this subchapter.

§1094-DD. License; fees; discontinuation of license

The board shall issue a license to practice as a dental hygiene therapist to an applicant for licensure under this subchapter who has met the requirements of this subchapter and rules adopted pursuant to the subchapter for licensure and has paid the application fee of not more than $175. A dental hygiene therapist shall publicly exhibit the license at the therapist's place of business or employment. The initial date of expiration of the license must be the original expiration date of the dental hygiene therapist's dental hygienist license issued by the board pursuant to subchapter 4 or, for an independent practice dental hygienist licensed by endorsement, January 1st of the first odd-numbered year following initial licensure. On or before January 1st of each odd-numbered year, a dental hygiene therapist shall pay to the board a license renewal fee. The board may renew the license of a dental hygiene therapist who meets the requirements for continued licensure and pays a renewal fee and a late fee by February 1st in the year in which renewal is due. The board shall suspend the license of a dental hygiene therapist who does not renew a license by February 1st in the year that renewal is due. The board may renew the license of a dental hygiene therapist who pays a renewal fee and a reinstatement fee as required by the board.

§1094-EE. Continuing education

As a condition of renewal of a license to practice under this subchapter, a dental hygiene therapist shall submit evidence of successful completion of 35 hours of continuing education in the 2 years prior to renewal. Continuing education under this section must be in conformity with the provisions of section 1084-A and must include
board-approved courses, including but not limited to a course in cardiopulmonary resuscitation. The board may refuse renewal to an applicant who has not satisfied the requirements of this section or may renew a license on terms and conditions set by the board.

§1094-FF. Limitation of practice

Upon completion of 2,000 hours of supervised clinical practice under section 1094-AA, subsection 4 a dental hygiene therapist may provide services within the scope of practice provided in section 1094-HH and under the direct supervision of a dentist who is licensed in this State in the following health settings: a hospital; a public school, as defined in Title 20-A, section 1, subsection 24; a nursing facility licensed under Title 22, chapter 405; a residential care facility licensed under Title 22, chapter 1663; a clinic; a health center reimbursed as a federally qualified health center as defined in 42 United States Code, Section 1395x(aa)(4) (1993) or that has been determined by the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services to meet the requirements for funding under Section 330 of the Public Health Service Act, 42 United States Code, Section 254(b); a federally qualified health center licensed in this State; a public health setting that serves underserved populations as recognized by the federal Department of Health and Human Services; or a private dental practice in which at least 50% of the patients who are provided services by that dental hygiene therapist are covered by the MaineCare program under Title 22 or are underserved adults.

§1094-GG. Written practice agreement; standing orders

A dental hygiene therapist may practice only under the direct supervision of a dentist who is licensed in this State, referred to in this subchapter as “the supervising dentist,” and through a written practice agreement signed by both parties. For the purposes of this section, a written practice agreement is a signed document that, in conformity with the legal scope of practice provided in section 1094-HH, outlines the functions that the dental hygiene therapist is authorized to perform. A dental hygiene therapist may practice only under the standing order of a dentist, may provide only care that follows written protocols and may provide only services that the dental hygiene therapist is authorized to provide by that dentist.

1. Minimum written practice agreement requirements. A written practice agreement between a supervising dentist and a dental hygiene therapist must include the following elements:

A. The services and procedures and the practice settings for those services and procedures that the dental hygiene therapist may provide, together with any limitations on those services and procedures;

B. Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines and imaging frequency;

C. Procedures to be used with patients treated by the dental hygiene therapist for obtaining informed consent and for creating and maintaining dental records;

D. A plan for review of patient records by the supervising dentist and the dental hygiene therapist;
E. A plan for managing medical emergencies in each practice setting in which the dental hygiene therapist provides care;

F. A quality assurance plan for monitoring care, including patient care review, referral follow-up and a quality assurance chart review;

G. Protocols for administering and dispensing medications, including the specific circumstances under which medications may be administered and dispensed;

H. Criteria for providing care to patients with specific medical conditions or complex medical histories, including requirements for consultation prior to initiating care; and

I. Specific written protocols, including a plan for providing clinical resources and referrals, governing situations in which the patient requires treatment that exceeds the scope of practice or capabilities of the dental hygiene therapist.

2. Responsibility. The supervising dentist shall accept responsibility for all authorized services and procedures performed by the dental hygiene therapist pursuant to the written agreement. A dental hygiene therapist who provides services or procedures beyond those authorized in the written agreement engages in unprofessional conduct for the purposes of this chapter.

3. Revision. Revisions to the written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental hygiene therapist.

4. Requirements. A supervising dentist and a dental hygiene therapist who sign a written practice agreement shall each file a copy of the agreement with the board, keep a copy for the dentist's or dental hygiene therapist's own records and make a copy available to patients of the dental hygiene therapist upon request. The copy of the written practice agreement in the records of the board must be made available to the public upon request.

§1094-HH. Scope of practice

A dental hygiene therapist may provide the care and services listed in this section and may provide them only under the direct supervision of a dentist licensed in this State. A dental hygiene therapist practicing under general supervision of a dentist may perform all duties of a dental hygiene therapist listed in rules adopted by the board. A dental hygiene therapist who is licensed as a dental hygienist may perform all of the duties of a dental hygienist under this chapter. A dental hygiene therapist who is licensed as an independent practice dental hygienist may perform all of the duties of an independent practice dental hygienist. A dental hygiene therapist may:

1. Assessments and treatments; preparations; restorations. Perform oral health assessments, pulpal disease assessments for primary and young teeth, simple cavity preparations and restorations and simple extractions;

2. Crowns; space maintainers. Prepare and place stainless steel crowns and aesthetic anterior crowns for primary incisors and prepare, place and remove space maintainers;

3. Referrals. Provide referrals;
4. **Anesthesia.** Administer local anesthesia and nitrous oxide analgesia;

5. **Preventive services.** Perform preventive services;

6. **Management of dental trauma and suturing; extractions.** Conduct urgent management of dental trauma, perform suturing and extract primary teeth and perform nonsurgical extractions of periodontally diseased permanent teeth if authorized in advance by the supervising dentist;

7. **Medications.** Provide, dispense and administer, within the parameters of the written practice agreement entered into under section 1094-GG and with the authorization of the supervising dentist, anti-inflammatories, nonprescription analgesics, antimicrobials, antibiotics and anticaries materials;

8. **Radiographs.** Administer radiographs; and

9. **Other related services and functions.** Perform other related services and functions authorized by the supervising dentist and for which the dental hygiene therapist is trained.

§1094-II. **Supervision of dental hygienists and dental assistants**

A dental hygiene therapist may supervise dental assistants and dental hygienists to the extent permitted in the written practice agreement entered into under section 1094-GG. A dental hygiene therapist may not supervise more than 3 dental assistants and 2 dental hygienists in any one practice setting.

§1094-JJ. **Referrals**

A supervising dentist shall arrange for another dentist or specialist to provide any services needed by a patient of a dental hygiene therapist supervised by that dentist that are beyond the scope of practice of the dental hygiene therapist and that the supervising dentist is unable to provide. A dental hygiene therapist, in accordance with a written practice agreement entered into under section 1094-GG, shall refer patients to another qualified dental or health care professional to receive needed services that exceed the scope of practice of the dental hygiene therapist.

§1094-KK. **Rulemaking**

The board shall adopt rules to implement this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 8. Board of Dental Examiners.** By January 1, 2015, the Department of Professional and Financial Regulation, Board of Dental Examiners shall adopt rules setting requirements for dental hygiene therapy education programs. Prior to adopting rules, the board shall consult with:

1. A member of the Maine Dental Association;

2. A member of the Maine Dental Hygienists' Association;
3. A dentist who practices at a dental clinic at which at least 50% of that dentist's patients are eligible for the MaineCare program;

4. A dental hygienist who practices at a dental clinic at which at least 50% of that dental hygienist's patients are eligible for the MaineCare program;

5. A person whose area of expertise is in public health; and

6. A member of an organization that advocates for low-income persons.

Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. Notwithstanding Title 32, section 1094-AA, subsection 2, paragraph A, until a dental hygiene therapy education program has been accredited by the American Dental Association Commission on Dental Accreditation or a successor organization, the Board of Dental Examiners may approve the dental hygiene therapy education program.

**Sec. 9. Exemption from review.** Notwithstanding the Maine Revised Statutes, Title 24-A, section 2752, this Act is enacted without review and evaluation by the Department of Professional and Financial Regulation, Bureau of Insurance.

**Sec. 10. Application.** Those sections of this Act that enact the Maine Revised Statutes, Title 22, section 3174-XX; Title 24, section 2317-B, subsection 21; and Title 24-A, sections 2765-A and 2847-U apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed on or after January 1, 2015 in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.
S.F. No. 2083, 3rd Engrossment - 86th Legislative Session (2009-2010) [s2083-3]

Sec. 46. REPEALER.

Minnesota Statutes 2008, section 136A.127, subdivisions 8, 12, and 13, are repealed.

ARTICLE 3
DENTAL THERAPISTs

Section 1. Minnesota Statutes 2008, section 150A.01, is amended by adding a subdivision to read:

Subd. 6b. Dental therapist. "Dental therapist" means a person licensed under this chapter to perform the services authorized under section 150A.105 or any other services authorized under this chapter.

Sec. 2. Minnesota Statutes 2008, section 150A.01, is amended by adding a subdivision to read:

Subd. 6c. Advanced dental therapist. "Advanced dental therapist" means a person licensed as a dental therapist under this chapter and who has been certified by the board to practice as an advanced dental therapist under section 150A.106.

Sec. 3. Minnesota Statutes 2008, section 150A.05, is amended by adding a subdivision to read:

Subd. 1b. Practice of dental therapy. A person shall be deemed to be practicing as a dental therapist within the meaning of this chapter who:

(1) works under the supervision of a Minnesota-licensed dentist under a collaborative management agreement as specified under section 150A.105;

(2) practices in settings that serve low-income, uninsured, and underserved patients or are located in dental health professional shortage areas; and

(3) provides oral health care services, including preventive, oral evaluation and assessment, educational, palliative, therapeutic, and restorative services as authorized under sections 150A.105 and 150A.106 and within the context of a collaborative management agreement.

Sec. 4. Minnesota Statutes 2008, section 150A.05, subdivision 2, is amended to read:

Subd. 2. Exemptions and exceptions of certain practices and operations.

Sections 150A.01 to 150A.12 do not apply to:

(1) the practice of dentistry or dental hygiene in any branch of the armed services of the United States, the United States Public Health Service, or the United States Veterans Administration;
(2) the practice of dentistry, dental hygiene, or dental assisting by undergraduate
dental students, dental therapy students, dental hygiene students, and dental assisting
students of the University of Minnesota, schools of dental hygiene, schools with a dental
therapy education program, or schools of dental assisting approved by the board, when
acting under the direction and supervision of a licensed dentist, a licensed dental therapist,
or a licensed dental hygienist acting as an instructor;

(3) the practice of dentistry by licensed dentists of other states or countries while
appearing as clinicians under the auspices of a duly approved dental school or college, or a
reputable dental society, or a reputable dental study club composed of dentists;

(4) the actions of persons while they are taking examinations for licensure or
registration administered or approved by the board pursuant to sections 150A.03,
subdivision 1, and 150A.06, subdivisions 1, 2, and 2a;

(5) the practice of dentistry by dentists and dental hygienists licensed by other states
during their functioning as examiners responsible for conducting licensure or registration
examinations administered by regional and national testing agencies with whom the
board is authorized to affiliate and participate under section 150A.03, subdivision 1,
and the practice of dentistry by the regional and national testing agencies during their
administering examinations pursuant to section 150A.03, subdivision 1;

(6) the use of X-rays or other diagnostic imaging modalities for making radiographs
or other similar records in a hospital under the supervision of a physician or dentist or
by a person who is credentialed to use diagnostic imaging modalities or X-ray machines
for dental treatment, roentgenograms, or dental diagnostic purposes by a credentialing
agency other than the Board of Dentistry; or

(7) the service, other than service performed directly upon the person of a patient, of
constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge,
splint, orthodontic, prosthetic, or other dental appliance, when performed according to a
written work order from a licensed dentist or a licensed advanced dental therapist in
accordance with section 150A.10, subdivision 3.

Sec. 5. Minnesota Statutes 2008, section 150A.06, is amended by adding a subdivision
to read:

Subd. 1d. Dental therapists. A person of good moral character who has graduated
with a baccalaureate degree or a master's degree from a dental therapy education program
that has been approved by the board or accredited by the American Dental Association
Commission on Dental Accreditation or another board-approved national accreditation
organization may apply for licensure.
The applicant must submit an application and fee as prescribed by the board and a
diploma or certificate from a dental therapy education program. Prior to being licensed,
the applicant must pass a comprehensive, competency-based clinical examination that is
approved by the board and administered independently of an institution providing dental
therapy education. The applicant must also pass an examination testing the applicant's
knowledge of the Minnesota laws and rules relating to the practice of dentistry. An
applicant who has failed the clinical examination twice is ineligible to retake the clinical
examination until further education and training are obtained as specified by the board. A
separate, nonrefundable fee may be charged for each time a person applies. An applicant
who passes the examination in compliance with subdivision 2b, abides by professional
ethical conduct requirements, and meets all the other requirements of the board shall
be licensed as a dental therapist.

Sec. 6. Minnesota Statutes 2008, section 150A.06, is amended by adding a subdivision
to read:

Subd. 1e. Resident dental providers. A person who is a graduate of an
undergraduate program and is an enrolled graduate student of an advanced dental
education program shall obtain from the board a license to practice as a resident dental
hygienist or dental therapist. The license must be designated "resident dental provider
license" and authorizes the licensee to practice only under the supervision of a licensed
dentist or licensed dental therapist. A resident dental provider license must be renewed
annually by the board. An applicant for a resident dental provider license shall pay a
nonrefundable fee set by the board for issuing and renewing the license. The requirements
of sections 150A.01 to 150A.21 apply to resident dental providers except as specified in
rules adopted by the board. A resident dental provider license does not qualify a person
for licensure under subdivision 1d or 2.

Sec. 7. Minnesota Statutes 2008, section 150A.06, subdivision 2d, is amended to read:

Subd. 2d. Continuing education and professional development waiver. (a) The
board shall grant a waiver to the continuing education requirements under this chapter for
a licensed dentist, a licensed dental therapist, licensed dental hygienist, or registered dental
assistant who documents to the satisfaction of the board that the dentist, a dental therapist,
dental hygienist, or registered dental assistant has retired from active practice in the state
and limits the provision of dental care services to those offered without compensation
in a public health, community, or tribal clinic or a nonprofit organization that provides
services to the indigent or to recipients of medical assistance, general assistance medical

care, or MinnesotaCare programs.

(b) The board may require written documentation from the volunteer and retired
dentist, a dental therapist, dental hygienist, or registered dental assistant prior to granting
this waiver.

(c) The board shall require the volunteer and retired dentist, dental
therapist, dental
hygienist, or registered dental assistant to meet the following requirements:

(1) a licensee or registrant seeking a waiver under this subdivision must complete
and document at least five hours of approved courses in infection control, medical
emergencies, and medical management for the continuing education cycle; and

(2) provide documentation of certification in advanced or basic cardiac life support
recognized by the American Heart Association, the American Red Cross, or an equivalent
entity.

Sec. 8. Minnesota Statutes 2008, section 150A.06, subdivision 5, is amended to read:

Subd. 5. Fraud in securing licenses or registrations. Every person implicated
in employing fraud or deception in applying for or securing a license or registration to
practice dentistry, dental hygiene, or dental therapy, or dental assisting, or in annually
renewing a license or registration under sections 150A.01 to 150A.12 is guilty of a gross
misdemeanor.

Sec. 9. Minnesota Statutes 2008, section 150A.06, subdivision 6, is amended to read:

Subd. 6. Display of name and certificates. The initial license and subsequent
renewal, or current registration certificate, of every dentist, dental
hygienist, or dental assistant shall be conspicuously displayed in every office in which that
person practices, in plain sight of patients. Near or on the entrance door to every office
where dentistry is practiced, the name of each dentist practicing there, as inscribed on the
current license certificate, shall be displayed in plain sight.

Sec. 10. Minnesota Statutes 2008, section 150A.08, subdivision 1, is amended to read:

Subdivision 1. Grounds. The board may refuse or by order suspend or revoke, limit
or modify by imposing conditions it deems necessary, any the license to practice dentistry
or dental hygiene of a dentist, dental therapist, or dental hygienist, or the registration of
any dental assistant upon any of the following grounds:

(1) fraud or deception in connection with the practice of dentistry or the securing of
a license or registration certificate;
(2) conviction, including a finding or verdict of guilt, an admission of guilt, or a no
contest plea, in any court of a felony or gross misdemeanor reasonably related to the
practice of dentistry as evidenced by a certified copy of the conviction;
(3) conviction, including a finding or verdict of guilt, an admission of guilt, or a
no contest plea, in any court of an offense involving moral turpitude as evidenced by a
certified copy of the conviction;
(4) habitual overindulgence in the use of intoxicating liquors;
(5) improper or unauthorized prescription, dispensing, administering, or personal
or other use of any legend drug as defined in chapter 151, of any chemical as defined in
chapter 151, or of any controlled substance as defined in chapter 152;
(6) conduct unbecoming a person licensed to practice dentistry, dental therapy, or
dental hygiene or registered as a dental assistant, or conduct contrary to the best interest of
the public, as such conduct is defined by the rules of the board;
(7) gross immorality;
(8) any physical, mental, emotional, or other disability which adversely affects a
dentist's, dental therapist's, dental hygienist's, or registered dental assistant's ability to
perform the service for which the person is licensed or registered;
(9) revocation or suspension of a license, registration, or equivalent authority to
practice, or other disciplinary action or denial of a license or registration application taken
by a licensing, registering, or credentialing authority of another state, territory, or country
as evidenced by a certified copy of the licensing authority's order, if the disciplinary action
or application denial was based on facts that would provide a basis for disciplinary action
under this chapter and if the action was taken only after affording the credentialed person
or applicant notice and opportunity to refute the allegations or pursuant to stipulation
or other agreement;
(10) failure to maintain adequate safety and sanitary conditions for a dental office in
accordance with the standards established by the rules of the board;
(11) employing, assisting, or enabling in any manner an unlicensed person to
practice dentistry;
(12) failure or refusal to attend, testify, and produce records as directed by the board
under subdivision 7;
(13) violation of, or failure to comply with, any other provisions of sections 150A.01
to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the
board, sections 144.291 to 144.298 or 595.02, subdivision 1, paragraph (d), or for any
other just cause related to the practice of dentistry. Suspension, revocation, modification
or limitation of any license shall not be based upon any judgment as to therapeutic or
monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct;

(14) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo; or

(15) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

Sec. 11. Minnesota Statutes 2008, section 150A.08, subdivision 3a, is amended to read:

Subd. 3a. **Costs; additional penalties.** (a) The board may impose a civil penalty not exceeding $10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive a licensee or registrant of any economic advantage gained by reason of the violation, to discourage similar violations by the licensee or registrant or any other licensee or registrant, or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

(b) In addition to costs and penalties imposed under paragraph (a), the board may also:

(1) order the dentist, dental therapist, dental hygienist, or dental assistant to provide unremunerated service;

(2) censure or reprimand the dentist, dental therapist, dental hygienist, or dental assistant; or

(3) any other action as allowed by law and justified by the facts of the case.
Sec. 12. Minnesota Statutes 2008, section 150A.08, subdivision 5, is amended to read:

Subd. 5. Medical examinations. If the board has probable cause to believe that a dentist, dental therapist, dental hygienist, registered dental assistant, or applicant engages in acts described in subdivision 1, clause (4) or (5), or has a condition described in subdivision 1, clause (8), it shall direct the dentist, dental therapist, dental hygienist, assistant, or applicant to submit to a mental or physical examination or a chemical dependency assessment. For the purpose of this subdivision, every dentist, dental therapist, hygienist, or assistant licensed or registered under this chapter or person submitting an application for a license or registration is deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and to have waived all objections in any proceeding under this section to the admissibility of the examining physician's testimony or examination reports on the ground that they constitute a privileged communication. Failure to submit to an examination without just cause may result in an application being denied or a default and final order being entered without the taking of testimony or presentation of evidence, other than evidence which may be submitted by affidavit, that the licensee, registrant, or applicant did not submit to the examination. A dentist, dental therapist, dental hygienist, registered dental assistant, or applicant affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate ability to start or resume the competent practice of dentistry or perform the duties of a dental therapist, dental hygienist, or registered dental assistant with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board is admissible, is subject to subpoena, or may be used against the dentist, dental therapist, dental hygienist, registered dental assistant, or applicant in any proceeding not commenced by the board. Information obtained under this subdivision shall be classified as private pursuant to the Minnesota Government Data Practices Act.

Sec. 13. Minnesota Statutes 2008, section 150A.09, subdivision 1, is amended to read:

Subdivision 1. Registration information and procedure. On or before the license or registration certificate expiration date every licensed dentist, dental therapist, dental hygienist, and registered dental assistant shall transmit to the executive secretary of the board, pertinent information required by the board, together with the fee established by the board. At least 30 days before a license or registration certificate expiration date, the board shall send a written notice stating the amount and due date of the fee and the information to be provided to every licensed dentist, dental therapist, dental hygienist, and registered dental assistant.
Sec. 14. Minnesota Statutes 2008, section 150A.09, subdivision 3, is amended to read:

Subd. 3. **Current address, change of address.** Every dentist, dental therapist, dental hygienist, and registered dental assistant shall maintain with the board a correct and current mailing address. For dentists engaged in the practice of dentistry, the address shall be that of the location of the primary dental practice. Within 30 days after changing addresses, every dentist, dental therapist, dental hygienist, and registered dental assistant shall provide the board written notice of the new address either personally or by first class mail.

Sec. 15. Minnesota Statutes 2008, section 150A.091, subdivision 2, is amended to read:

Subd. 2. **Application fees.** Each applicant for licensure or registration shall submit with a license or registration application a nonrefundable fee in the following amounts in order to administratively process an application:

1. (1) dentist, $140;
2. (2) limited faculty dentist, $140;
3. (3) resident dentist, $55;
4. (4) dental therapist, $100;
5. (5) dental hygienist, $55;
6. (6) registered dental assistant, $35; and
7. (7) dental assistant with a limited registration, $15.

Sec. 16. Minnesota Statutes 2008, section 150A.091, subdivision 3, is amended to read:

Subd. 3. **Initial license or registration fees.** Along with the application fee, each of the following licensees or registrants shall submit a separate prorated initial license or registration fee. The prorated initial fee shall be established by the board based on the number of months of the licensee's or registrant's initial term as described in Minnesota Rules, part 3100.1700, subpart 1a, not to exceed the following monthly fee amounts:

1. (1) dentist, $14 times the number of months of the initial term;
2. (2) dental therapist, $10 times the number of months of initial term;
3. (3) dental hygienist, $5 times the number of months of the initial term;
4. (4) registered dental assistant, $3 times the number of months of initial term; and
5. (5) dental assistant with a limited registration, $1 times the number of months of the initial term.

Sec. 17. Minnesota Statutes 2008, section 150A.091, subdivision 5, is amended to read:
S.F. No. 2083, 3rd Engrossment - 86th Legislative Session (2009-2010) [s2083-3]

Subd. 5. **Biennial license or registration fees.** Each of the following licensees or registrants shall submit with a biennial license or registration renewal application a fee as established by the board, not to exceed the following amounts:

1. (1) dentist, $336;
2. (2) dental therapist, $180;
3. (3) dental hygienist, $118;
4. (4) (4) registered dental assistant, $80; and
5. (5) dental assistant with a limited registration, $24.

Sec. 18. Minnesota Statutes 2008, section 150A.091, subdivision 8, is amended to read:

Subd. 8. **Duplicate license or registration fee.** Each licensee or registrant shall submit, with a request for issuance of a duplicate of the original license or registration, or of an annual or biennial renewal of it, a fee in the following amounts:

1. (1) original dentist, dental therapist, or dental hygiene license, $35; and
2. (2) initial and renewal registration certificates and license renewal certificates, $10.

Sec. 19. Minnesota Statutes 2008, section 150A.091, subdivision 10, is amended to read:

Subd. 10. **Reinstatement fee.** No dentist, dental therapist, dental hygienist, or registered dental assistant whose license or registration has been suspended or revoked may have the license or registration reinstated or a new license or registration issued until a fee has been submitted to the board in the following amounts:

1. (1) dentist, $140;
2. (2) dental therapist, $85;
3. (3) dental hygienist, $55; and
4. (4) registered dental assistant, $35.

Sec. 20. Minnesota Statutes 2008, section 150A.10, subdivision 1, is amended to read:

Subdivision 1. **Dental hygienists.** Any licensed dentist, licensed dental therapist, public institution, or school authority may obtain services from a licensed dental hygienist. Such The licensed dental hygienist may provide those services defined in section 150A.05, subdivision 1a. Such The services provided shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Such All services shall be provided under supervision of a licensed dentist. Any licensed dentist who shall permit any dental service by a dental hygienist other than those authorized by the Board of Dentistry, shall be deemed to be violating the provisions of sections 150A.01 to 150A.12, and any such...
unauthorized dental service by a dental hygienist shall constitute a violation of sections 150A.01 to 150A.12.

Sec. 21. Minnesota Statutes 2008, section 150A.10, subdivision 2, is amended to read:

Subd. 2. Dental assistants. Every licensed dentist and dental therapist who uses the services of any unlicensed person for the purpose of assistance in the practice of dentistry or dental therapy shall be responsible for the acts of such unlicensed person while engaged in such assistance. Such The dentist or dental therapist shall permit such the unlicensed assistant to perform only those acts which are authorized to be delegated to unlicensed assistants by the Board of Dentistry. Such The acts shall be performed under the supervision of a licensed dentist or dental therapist. A licensed dental therapist shall not supervise more than four registered dental assistants at any one practice setting. The board may permit differing levels of dental assistance based upon recognized educational standards, approved by the board, for the training of dental assistants. The board may also define by rule the scope of practice of registered and nonregistered dental assistants. The board by rule may require continuing education for differing levels of dental assistants, as a condition to their registration or authority to perform their authorized duties. Any licensed dentist or dental therapist who shall permit such permits an unlicensed assistant to perform any dental service other than that authorized by the board shall be deemed to be enabling an unlicensed person to practice dentistry, and commission of such an act by such an unlicensed assistant shall constitute a violation of sections 150A.01 to 150A.12.

Sec. 22. Minnesota Statutes 2008, section 150A.10, subdivision 3, is amended to read:

Subd. 3. Dental technicians. Every licensed dentist and dental therapist who uses the services of any unlicensed person, other than under the dentist's or dental therapist's supervision and within such dentist's or dental therapist's office the same practice setting, for the purpose of constructing, altering, repairing or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic or other dental appliance, shall be required to furnish such unlicensed person with a written work order in such form as shall be prescribed by the rules of the board. Such The work order shall be made in duplicate form, a duplicate copy to be retained in a permanent file in of the dentist's or dental therapist's office dentist or dental therapist at the practice setting for a period of two years, and the original to be retained in a permanent file for a period of two years by such the unlicensed person in that person's place of business. Such The permanent file of work orders to be kept by such the dentist, dental therapist, or by such the unlicensed person shall be open to inspection at any reasonable time by the board or its duly constituted agent.
Sec. 23. Minnesota Statutes 2008, section 150A.10, subdivision 4, is amended to read:
Subd. 4. Restorative procedures. (a) Notwithstanding subdivisions 1, 1a, and 2,
a licensed dental hygienist or a registered dental assistant may perform the following
restorative procedures:
(1) place, contour, and adjust amalgam restorations;
(2) place, contour, and adjust glass ionomer;
(3) adapt and cement stainless steel crowns; and
(4) place, contour, and adjust class I and class V supragingival composite restorations
where the margins are entirely within the enamel.
(b) The restorative procedures described in paragraph (a) may be performed only if:
(1) the licensed dental hygienist or the registered dental assistant has completed a
board-approved course on the specific procedures;
(2) the board-approved course includes a component that sufficiently prepares the
dental hygienist or registered dental assistant to adjust the occlusion on the newly placed
restoration;
(3) a licensed dentist or licensed advanced dental therapist has authorized the
procedure to be performed; and
(4) a licensed dentist or licensed advanced dental therapist is available in the clinic
while the procedure is being performed.
(c) The dental faculty who teaches the educators of the board-approved courses
specified in paragraph (b) must have prior experience teaching these procedures in an
accredited dental education program.

Sec. 24. [150A.105] DENTAL THERAPIST.
Subdivision 1. General. A dental therapist licensed under this chapter shall practice
under the supervision of a Minnesota-licensed dentist and under the requirements of
this chapter.
Subd. 2. Limited practice settings. A dental therapist licensed under this chapter
is limited to primarily practicing in settings that serve low-income, uninsured, and
underserved patients or in a dental health professional shortage area.
Subd. 3. Collaborative management agreement. (a) Prior to performing any of
the services authorized under this chapter, a dental therapist must enter into a written
collaborative management agreement with a Minnesota-licensed dentist. A collaborating
dentist is limited to entering into a collaborative agreement with no more than five dental
therapists or advanced dental therapists at any one time. The agreement must include:
(1) practice settings where services may be provided and the populations to be served;
(2) any limitations on the services that may be provided by the dental therapist, including the level of supervision required by the collaborating dentist;
(3) age and procedure specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency;
(4) a procedure for creating and maintaining dental records for the patients that are treated by the dental therapist;
(5) a plan to manage medical emergencies in each practice setting where the dental therapist provides care;
(6) a quality assurance plan for monitoring care provided by the dental therapist, including patient care review, referral follow-up, and a quality assurance chart review;
(7) protocols for administering and dispensing medications authorized under subdivision 5, and section 150A.106, including the specific conditions and circumstance under which these medications are to be dispensed and administered;
(8) criteria relating to the provision of care to patients with specific medical conditions or complex medication histories, including requirements for consultation prior to the initiation of care;
(9) supervision criteria of dental assistants; and
(10) a plan for the provision of clinical resources and referrals in situations which are beyond the capabilities of the dental therapist.
(b) A collaborating dentist must be licensed and practicing in Minnesota. The collaborating dentist shall accept responsibility for all services authorized and performed by the dental therapist pursuant to the management agreement. Any licensed dentist who permits a dental therapist to perform a dental service other than those authorized under this section or by the board, or any dental therapist who performs an unauthorized service, violates sections 150A.01 to 150A.12.
(c) Collaborative management agreements must be signed and maintained by the collaborating dentist and the dental therapist. Agreements must be reviewed, updated, and submitted to the board on an annual basis.

Subd. 4. Scope of practice. (a) A licensed dental therapist may perform dental services as authorized under this section within the parameters of the collaborative management agreement.
(b) The services authorized to be performed by a licensed dental therapist include the oral health services, as specified in paragraphs (c) and (d), and within the parameters of the collaborative management agreement.
(c) A licensed dental therapist may perform the following services under general supervision, unless restricted or prohibited in the collaborative management agreement:

(1) oral health instruction and disease prevention education, including nutritional counseling and dietary analysis;

(2) preliminary charting of the oral cavity;

(3) making radiographs;

(4) mechanical polishing;

(5) application of topical preventive or prophylactic agents, including fluoride varnishes and pit and fissure sealants;

(6) pulp vitality testing;

(7) application of desensitizing medication or resin;

(8) fabrication of athletic mouthguards;

(9) placement of temporary restorations;

(10) fabrication of soft occlusal guards;

(11) tissue conditioning and soft reline;

(12) atraumatic restorative therapy;

(13) dressing changes;

(14) tooth reimplantation;

(15) administration of local anesthetic; and

(16) administration of nitrous oxide.

(d) A licensed dental therapist may perform the following services under indirect supervision:

(1) emergency palliative treatment of dental pain;

(2) the placement and removal of space maintainers;

(3) cavity preparation;

(4) restoration of primary and permanent teeth;

(5) placement of temporary crowns;

(6) preparation and placement of preformed crowns; and

(7) pulpotomies on primary teeth;

(8) indirect and direct pulp capping on primary and permanent teeth;

(9) stabilization of reimplanted teeth;

(10) extractions of primary teeth;

(11) suture removal;

(12) brush biopsies;

(13) repair of defective prosthetic devices; and

(14) recrementing of permanent crowns.
S.F. No. 2083, 3rd Engrossment - 86th Legislative Session (2009-2010) [s2083-3]

56.1 (e) For purposes of this section and section 150A.106, "general supervision" and
56.2 "indirect supervision" have the meanings given in Minnesota Rules, part 3100.0100,
56.3 subpart 21.
56.4 Subd. 5. Dispensing authority. (a) A licensed dental therapist may dispense and
56.5 administer the following drugs within the parameters of the collaborative management
56.6 agreement and within the scope of practice of the dental therapist: analgesics,
56.7 anti-inflammatory, and antibiotics.
56.8 (b) The authority to dispense and administer shall extend only to the categories
56.9 of drugs identified in this subdivision, and may be further limited by the collaborative
56.10 management agreement.
56.11 (c) The authority to dispense includes the authority to dispense sample drugs within
56.12 the categories identified in this subdivision if dispensing is permitted by the collaborative
56.13 management agreement.
56.14 (d) A licensed dental therapist is prohibited from dispensing or administering a
56.15 narcotic drug as defined in section 152.01, subdivision 10.
56.16 Subd. 6. Application of other laws. A licensed dental therapist authorized to
56.17 practice under this chapter is not in violation of section 150A.05 as it relates to the
56.18 unauthorized practice of dentistry if the practice is authorized under this chapter and is
56.19 within the parameters of the collaborative management agreement.
56.20 Subd. 7. Use of dental assistants. (a) A licensed dental therapist may supervise
56.21 dental assistants to the extent permitted in the collaborative management agreement and
56.22 according to section 150A.10, subdivision 2.
56.23 (b) Notwithstanding paragraph (a), a licensed dental therapist is limited to
56.24 supervising no more than four registered dental assistants or nonregistered dental
56.25 assistants at any one practice setting.
56.26 Subd. 8. Definitions. (a) For the purposes of this section, the following definitions
56.27 apply.
56.28 (b) "Practice settings that serve the low-income and underserved" mean:
56.29 (1) critical access dental provider settings as designated by the commissioner of
56.30 human services under section 256B.76, subdivision 4;
56.31 (2) dental hygiene collaborative practice settings identified in section 150A.10,
56.32 subdivision 1a, paragraph (e), and including medical facilities, assisted living facilities,
56.33 federally qualified health centers, and organizations eligible to receive a community clinic
56.34 grant under section 145.9268, subdivision 1;
56.35 (3) military and veterans administration hospitals, clinics, and care settings;
(4) a patient's residence or home when the patient is home-bound or receiving or
eligible to receive home care services or home and community-based waived services,
regardless of the patient's income;

(5) oral health educational institutions; or

(6) any other clinic or practice setting, including mobile dental units, in which at
least 50 percent of the total patient base of the dental therapist or advanced dental therapist
consists of patients who:

(i) are enrolled in a Minnesota health care program;

(ii) have a medical disability or chronic condition that creates a significant barrier
to receiving dental care;

(iii) do not have dental health coverage, either through a public health care program
or private insurance, and have an annual gross family income equal to or less than 200
percent of the federal poverty guidelines; or

(iv) do not have dental health coverage either through a state public health care
program or private insurance, and whose family gross income is equal to or less than 200
percent of the federal poverty guidelines.

(c) "Dental health professional shortage area" means an area that meets the criteria
established by the secretary of the United States Department of Health and Human
Services and is designated as such under United States Code, title 42, section 254e.

Sec. 25. [150A.106] ADVANCED PRACTICE DENTAL THERAPIST.

Subdivision 1. General. In order to be certified by the board to practice as an
advanced dental therapist, a person must:

(1) complete a dental therapy education program;

(2) pass an examination to demonstrate competency under the dental therapy scope
of practice;

(3) be licensed as a dental therapist;

(4) complete 2,000 hours of dental therapy clinical practice under direct or indirect
supervision;

(5) graduate from a master's advanced dental therapy education program;

(6) pass a board-approved certification examination to demonstrate competency
under the advanced scope of practice; and

(7) submit an application for certification as prescribed by the board.

Subd. 2. Scope of practice. (a) An advanced dental therapist certified by the board
under this section may perform the following services and procedures pursuant to the
written collaborative management agreement:
(1) an oral evaluation and assessment of dental disease and the formulation of an
individualized treatment plan authorized by the collaborating dentist;
(2) the services and procedures described under section 150A.105, subdivision 4,
paragraphs (c) and (d); and
(3) nonsurgical extractions of permanent teeth as limited in subdivision 3, paragraph
(b).
(b) The services and procedures described under this subdivision may be performed
under general supervision.

Subd. 3. Practice limitation. (a) An advanced practice dental therapist shall not
perform any service or procedure described in subdivision 2 except as authorized by
the collaborating dentist.
(b) An advanced dental therapist may perform nonsurgical extractions of
periodontally diseased permanent teeth with tooth mobility of +3 to +4 under general
supervision if authorized in advance by the collaborating dentist. The advanced dental
therapist shall not extract a tooth for any patient if the tooth is unerupted, impacted,
fRACTured, or needs to be sectioned for removal.
(c) The collaborating dentist is responsible for directly providing or arranging for
another dentist or specialist to provide any necessary advanced services needed by the
patient.
(d) An advanced dental therapist in accordance with the collaborative management
agreement must refer patients to another qualified dental or health care professional to
receive any needed services that exceed the scope of practice of the advanced dental
therapist.
(e) In addition to the collaborative management agreement requirements described in
section 150A.105, a collaborative management agreement entered into with an advanced
dental therapist must include specific written protocols to govern situations in which
the advanced dental therapist encounters a patient who requires treatment that exceeds
the authorized scope of practice of the advanced dental therapist. The collaborating
dentist must ensure that a dentist is available to the advanced dental therapist for timely
consultation during treatment if needed and must either provide or arrange with another
dentist or specialist to provide the necessary treatment to any patient who requires more
treatment than the advanced dental therapist is authorized to provide.

Subd. 4. Medications. (a) An advanced dental therapist may provide, dispense, and
administer the following drugs within the parameters of the collaborative management
agreement, within the scope of practice of the advanced dental therapist practitioner,
and with the authorization of the collaborating dentist: analgesics, anti-inflammatory,
and antibiotics.

(b) The authority to provide, dispense, and administer shall extend only to the
categories of drugs identified in this subdivision, and may be further limited by the
collaborative management agreement.

(c) The authority to dispense includes the authority to dispense sample drugs within
the categories identified in this subdivision if dispensing is permitted by the collaborative
management agreement.

(d) Notwithstanding paragraph (a), an advanced dental therapist is prohibited from
providing, dispensing, or administering a narcotic drug as defined in section 152.01,
subdivision 10.

Sec. 26. Minnesota Statutes 2008, section 150A.11, subdivision 4, is amended to read:

Subd. 4. Dividing fees. It shall be unlawful for any dentist to divide fees with or
promise to pay a part of the dentist's fee to, or to pay a commission to, any dentist or
other person who calls the dentist in consultation or who sends patients to the dentist for
treatment, or operation, but nothing herein shall prevent licensed dentists from forming
a bona fide partnership for the practice of dentistry, nor to the actual employment by a
licensed dentist of, a licensed dental therapist, a licensed dental hygienist, or another
licensed dentist.

Sec. 27. Minnesota Statutes 2008, section 150A.12, is amended to read:

150A.12 VIOLATION AND DEFENSES.

Every person who violates any of the provisions of sections 150A.01 to 150A.12
for which no specific penalty is provided herein, shall be guilty of a gross misdemeanor;
and, upon conviction, punished by a fine of not more than $3,000 or by imprisonment in
the county jail for not more than one year or by both such fine and imprisonment. In
the prosecution of any person for violation of sections 150A.01 to 150A.12, it shall not
be necessary to allege or prove lack of a valid license to practice dentistry or dental
hygiene, or dental therapy but such matter shall be a matter of defense to be established by
the defendant.

Sec. 28. Minnesota Statutes 2008, section 150A.21, subdivision 1, is amended to read:

Subdivision 1. Patient's name and Social Security number. Every complete
upper and lower denture and removable dental prosthesis fabricated by a dentist licensed
under section 150A.06, or fabricated pursuant to the dentist's or dental therapist's work

Article 3 Sec. 28.
order, shall be marked with the name and Social Security number of the patient for whom
the prosthesis is intended. The markings shall be done during fabrication and shall be
permanent, legible and cosmetically acceptable. The exact location of the markings and
the methods used to apply or implant them shall be determined by the dentist or dental
laboratory fabricating the prosthesis. If in the professional judgment of the dentist or dental
laboratory, this identification is not practicable, identification shall be provided as follows:
(a) The Social Security number of the patient may be omitted if the name of the
patient is shown;
(b) The initials of the patient may be shown alone, if use of the name of the patient is
impracticable;
(c) The identification marks may be omitted in their entirety if none of the forms of
identification specified in clauses (a) and (b) are practicable or clinically safe.

Sec. 29. Minnesota Statutes 2008, section 150A.21, subdivision 4, is amended to read:
Subd. 4. Failure to comply. Failure of any dentist or dental therapist to comply
with this section shall be deemed to be a violation for which the dentist or dental therapist
may be subject to proceedings pursuant to section 150A.08, provided the dentist is charged
with the violation within two years of initial insertion of the dental prosthetic device.

Sec. 30. Minnesota Statutes 2008, section 151.01, subdivision 23, is amended to read:
Subd. 23. Practitioner. "Practitioner" means a licensed doctor of medicine, licensed
doctor of osteopathy duly licensed to practice medicine, licensed doctor of dentistry,
licensed doctor of optometry, licensed podiatrist, or licensed veterinarian. For purposes
of sections 151.15, subdivision 4, 151.37, subdivision 2, paragraphs (b), (e), and (f),
and 151.461, "practitioner" also means a physician assistant authorized to prescribe,
dispense, and administer under chapter 147A, or an advanced practice nurse authorized
to prescribe, dispense, and administer under section 148.235, For purposes of sections
151.15, subdivision 4; 151.37, subdivision 2, paragraph (b); and 151.461, "practitioner"
also means a dental therapist authorized to dispense and administer under chapter 150A.

Sec. 31. IMPACT OF DENTAL THERAPISTS.
(a) The Board of Dentistry shall evaluate the impact of the use of dental therapists
on the delivery of and access to dental services. The board shall report to the chairs and
ranking minority members of the legislative committees with jurisdiction over health
care by January 15, 2014:
(1) the number of dental therapists annually licensed by the board beginning in 2011;
(2) the settings where licensed dental therapists are practicing and the populations being served;

(3) the number of complaints filed against dental therapists and the basis for each complaint; and

(4) the number of disciplinary actions taken against dental therapists.

(b) The board, in consultation with the Department of Human Services, shall also include the number and type of dental services that were performed by dental therapists and reimbursed by the state under the Minnesota state health care programs for the 2013 fiscal year.

(c) The Board of Dentistry, in consultation with the Department of Health, shall develop an evaluation process that focuses on assessing the impact of dental therapists in terms of patient safety, cost-effectiveness, and access to dental services. The process shall focus on the following outcome measures:

(1) number of new patients served;

(2) reduction in waiting times for needed services;

(3) decreased travel time for patients;

(4) impact on emergency room usage for dental care; and

(5) costs to the public health care system.

(d) The evaluation process shall be used by the board in the report required in paragraph (a) and shall expire January 1, 2014.

Sec. 32. **REPEALER.**

Minnesota Statutes 2008, section 150A.061, is repealed.
AN ACT to amend the public health law, in relation to requiring hospitals to offer hepatitis C testing

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public health law is amended by adding a new section 2171 to read as follows:

S 2171. REQUIRED OFFERING OF HEPATITIS C RELATED TESTING. 1. EVERY INDIVIDUAL BORN BETWEEN THE YEARS OF NINETEEN HUNDRED FORTY-FIVE AND NINETEEN HUNDRED SIXTY-FIVE WHO RECEIVES HEALTH SERVICES AS AN INPATIENT OR IN THE EMERGENCY DEPARTMENT OF A GENERAL HOSPITAL DEFINED IN SUBDIVISION TEN OF SECTION TWENTY-EIGHT HUNDRED ONE OF THIS CHAPTER OR WHO RECEIVES PRIMARY CARE SERVICES IN AN OUTPATIENT DEPARTMENT OF SUCH HOSPITAL OR IN A DIAGNOSTIC AND TREATMENT CENTER LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR FROM A PHYSICIAN, PHYSICIAN ASSISTANT OR A NURSE PRACTITIONER PROVIDING PRIMARY CARE SHALL BE OFFERED A HEPATITIS C RELATED TEST UNLESS THE HEALTH CARE PRACTITIONER PROVIDING SUCH SERVICES REASONABLY BELIEVES THAT:

(A) THE INDIVIDUAL IS BEING TREATED FOR A LIFE THREATENING EMERGENCY; OR

(B) THE INDIVIDUAL HAS PREVIOUSLY BEEN OFFERED OR HAS BEEN THE SUBJECT OF A HEPATITIS C RELATED TEST (EXCEPT THAT A TEST SHALL BE OFFERED IF OTHERWISE INDICATED); OR

(C) THE INDIVIDUAL LACKS CAPACITY TO CONSENT TO A HEPATITIS C RELATED TEST.

2. AS USED IN THIS SECTION, "PRIMARY CARE" MEANS THE MEDICAL FIELDS OF FAMILY MEDICINE, GENERAL PEDIATRICS, PRIMARY CARE, INTERNAL MEDICINE, PRIMARY CARE OBSTETRICS, OR PRIMARY CARE GYNECOLOGY, WITHOUT REGARD TO BOARD CERTIFICATION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD00481-01-3
3. THE OFFERING OF HEPATITIS C RELATED TESTING UNDER THIS SECTION SHALL BE CULTURALLY AND LINGUISTICALLY APPROPRIATE IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER.

4. THIS SECTION SHALL NOT AFFECT THE SCOPE OF PRACTICE OF ANY HEALTH CARE PRACTITIONER OR DIMINISH ANY AUTHORITY OR LEGAL OR PROFESSIONAL OBLIGATION OF ANY HEALTH CARE PRACTITIONER TO OFFER A HEPATITIS C RELATED TEST OR TO PROVIDE SERVICES OR CARE FOR THE SUBJECT OF A HEPATITIS C RELATED TEST.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.
Senate, April 8, 2014

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING HEPATITIS C TESTING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective October 1, 2014) (a) For purposes of this section:

1. "Hepatitis C screening test" means a laboratory test that detects the presence of hepatitis C virus antibodies in the blood;

2. "Hepatitis C diagnostic test" means a laboratory test that detects the presence of hepatitis C virus in the blood and provides confirmation of whether the person whose blood is being tested has a hepatitis C virus infection;

3. "Primary care provider" means a physician, advanced practice registered nurse or physician assistant who provides primary care services and is licensed by the Department of Public Health pursuant to Title 20 of the general statutes; and
(4) "Primary care" means the medical fields of family medicine, general pediatrics, primary care, internal medicine, primary care obstetrics or primary care gynecology, without regard to board certification.

(b) On and after October 1, 2014, a primary care provider shall offer to provide to, or order for, each patient who was born between 1945 to 1965, inclusive, a hepatitis C screening test or hepatitis C diagnostic test at the time the primary care provider provides services to such patient, except a primary care provider is not required to offer to provide to, or order for, such patient a hepatitis C screening test or hepatitis C diagnostic test when the primary care provider reasonably believes: (1) Such patient is being treated for a life-threatening emergency; (2) such patient has previously been offered or has received a hepatitis C screening test; or (3) such patient lacks the capacity to consent to a hepatitis C screening test.

(c) A primary care provider who provides or orders a hepatitis C screening test pursuant to subsection (b) of this section, and receives notice that said test is reactive shall offer the patient having a reactive test continuing health care relating to the reactive test or refer such patient to another health care provider for such continuing health care. Such continuing health care shall include a hepatitis C diagnostic test.

This act shall take effect as follows and shall amend the following sections:

<table>
<thead>
<tr>
<th>Section 1</th>
<th>October 1, 2014</th>
<th>New section</th>
</tr>
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PH Joint Favorable Subst.
SENATE BILL 14-173


CONCERNING THE RECOMMENDATION THAT CERTAIN PERSONS BE OFFERED A TEST FOR THE HEPATITIS C VIRUS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) More than seventy-five percent of adults with hepatitis C are baby boomers born between 1945 and 1965;

(b) The number of hepatitis C infections is five times higher among persons born between 1945 and 1965 than among adults born in other years and most do not know that they are infected;

(c) As baby boomers age, there is a greater chance that they will
develop serious, life-threatening liver disease from hepatitis C;

(d) Testing people will help them learn if they are infected and get them into lifesaving care and treatment;

(e) Early diagnosis and treatment of hepatitis C can help prevent liver damage, cirrhosis, and liver cancer; and

(f) The federal center for disease control and prevention recommends that anyone born from 1945 to 1965 get tested for hepatitis C.

(2) Therefore, it is the recommendation of the general assembly that health care providers offer hepatitis C screenings to people born between 1945 and 1965.

SECTION 2. In Colorado Revised Statutes, add 25-4-2005 as follows:

(1) The department recommends that each primary health care provider or physician, physician assistant, or nurse practitioner who treats a patient in an inpatient or outpatient setting may offer a person born between the years of 1945 and 1965 a hepatitis C screening test or hepatitis C diagnostic test unless the health care provider providing such services reasonably believes that:

(a) The patient is being treated for a life-threatening emergency;

(b) The patient has previously been offered or has been the subject of a hepatitis C screening; or

(c) The patient lacks capacity to consent to a hepatitis C screening test.

(2) If a patient accepts the offer of a hepatitis C screening test and the screening test is reactive, the health care provider may either offer the patient follow-up health care or refer the individual to a health care provider who can provide follow-up health care, including a hepatitis C diagnostic test.
(3) THE HEALTH CARE PROVIDER SHALL MAKE THE OFFER OF A HEPATITIS C SCREENING TO THE PATIENT IN A LINGUISTICALLY AND CULTURALLY APPROPRIATE MANNER, AS DETERMINED BY RULES PROMULGATED BY THE DEPARTMENT.

(4) NOTHING IN THIS SECTION AFFECTS THE SCOPE OF PRACTICE OF A HEALTH CARE PROVIDER OR DIMINISHES ANY AUTHORITY OR LEGAL OR PROFESSIONAL OBLIGATION OF A HEALTH CARE PROVIDER TO OFFER A HEPATITIS C SCREENING TEST OR HEPATITIS C DIAGNOSTIC TEST OR TO PROVIDE SERVICES OR CARE FOR THE SUBJECT OF A HEPATITIS C SCREENING TEST OR HEPATITIS C DIAGNOSTIC TEST.

(5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "HEPATITIS C DIAGNOSTIC TEST" MEANS A LABORATORY TEST OR TESTS THAT DETECT THE PRESENCE OF HEPATITIS C VIRUS IN THE BLOOD AND PROVIDE CONFIRMATION OF WHETHER THE PATIENT HAS A HEPATITIS C INFECTION.

(b) "HEPATITIS C SCREENING TEST" MEANS A FEDERAL FOOD AND DRUG ADMINISTRATION-APPROVED RAPID POINT OF CARE TEST OR OTHER FOOD AND DRUG ADMINISTRATION-APPROVED TESTS THAT DETECT THE PRESENCE OF HEPATITIS C VIRUS ANTIBODIES IN THE BLOOD.

SECTION 3. ACT SUBJECT TO PETITION - EFFECTIVE DATE. THIS ACT TAKES EFFECT AT 12:01 A.M. ON THE DAY FOLLOWING THE EXPIRATION OF THE NINETY-DAY PERIOD AFTER FINAL ADJOURNMENT OF THE GENERAL ASSEMBLY (AUGUST 6, 2014, IF ADJOURNMENT SINE DIE IS ON MAY 7, 2014); EXCEPT THAT, IF A REFERENDUM PETITION IS FILED PURSUANT TO SECTION L (3) OF ARTICLE V OF THE STATE CONSTITUTION AGAINST THIS ACT OR AN ITEM, SECTION, OR PART OF THIS ACT WITHIN SUCH PERIOD, THEN THE ACT, ITEM, SECTION, OR PART WILL NOT TAKE EFFECT UNLESS
approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

____________________________  ____________________________
Morgan Carroll  Mark Ferrandino
PRESIDENT OF  SPEAKER OF THE HOUSE
THE SENATE  OF REPRESENTATIVES

____________________________  ____________________________
Cindi L. Markwell  Marilyn Eddins
SECRETARY OF  CHIEF CLERK OF THE HOUSE
THE SENATE  OF REPRESENTATIVES

APPROVED________________________________________

_________________________________________
John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO

PAGE 4-SENATE BILL 14-173
AN ACT TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO COORDINATE CHRONIC DISEASE CARE.

Whereas, chronic disease is recognized as the leading cause of disability and death in the United States, and accounts for 1,700,000 deaths or 70% of all deaths in the United States each year; and

Whereas, chronic diseases such as heart disease, hypertension, stroke, cancer, respiratory diseases, diabetes, and obesity are among the most prevalent, costly, and preventable of all health problems in North Carolina; and

Whereas, implementing prevention programs around multiple chronic conditions could help North Carolina reduce the overall financial burden of chronic illness within public programs such as Medicaid and Health Choice for Children and within the State Employees Health Insurance Plan; and

Whereas, the inefficient coordination of care for persons with chronic health conditions has led not only to higher costs but to poorer health outcomes for the most vulnerable populations within North Carolina; and

Whereas, preventing and treating chronic disease is an important public health initiative that will improve the quality of life for North Carolinians affected by these conditions and also reduce State costs for Medicaid, Health Choice, and the State Health Plan; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as The Chronic Care Coordination Act.

SECTION 2. Article 7 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 4A. Chronic Care Coordination.

§ 130A-222.5. Department to coordinate chronic care initiatives.

The Department’s Divisions of Public Health and Medical Assistance and the Division in the Department of State Treasurer responsible for the State Health Plan for Teachers and State Employees shall collaborate to reduce the incidence of chronic disease and improve chronic care coordination within the State by doing all of the following:

(1) Identifying goals and benchmarks for the reduction of chronic disease.
(2) Developing wellness and prevention plans specifically tailored to each of the Divisions.
(3) Submitting an annual report on or before January 1 of each odd-numbered year to the Senate Appropriations Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division that includes at least all of the following:
   a. The financial impact and magnitude of the chronic health conditions in this State that are most likely to cause death and disability, including, but not limited to, chronic cardiovascular disease, oncology, stroke, chronic lung disease, and chronic metabolic disease. As used in this subdivision, the term "chronic cardiovascular disease" includes heart disease and hypertension; the term "chronic metabolic disease" includes diabetes and obesity; and the term..."
"chronic lung disease" means asthma and chronic obstructive pulmonary disease.

b. An assessment of the benefits derived from wellness and prevention programs and activities implemented within the State with the goal of coordinating chronic care. This assessment shall include a breakdown of the amount of all State, federal, and other funds appropriated to the Department for wellness and prevention programs and activities for the detection, prevention, and treatment of persons with multiple chronic health conditions, at least one of which is a condition identified in sub-subdivision a. of this subdivision.

c. A description of the level of coordination among the Divisions of Public Health and Medical Assistance and the Division in the Department of State Treasurer responsible for the State Health Plan for Teachers and State Employees with respect to activities, programs, and public education on the prevention, treatment, and management of the chronic health conditions identified in sub-subdivision a. of this subdivision.

d. Detailed action plans for care coordination of multiple chronic health conditions in the same patient, including a range of recommended legislative actions. The action plans shall identify proposed action steps to reduce the financial impact of the chronic health conditions identified in sub-subdivision a. of this subdivision, including (i) adjustment of hospital readmission rates, (ii) development of transitional care plans, (iii) implementation of comprehensive medication management, as described by the Patient-Centered Primary Care Collaborative, to help patients achieve improved clinical and therapeutic outcomes, and (iv) adoption of standards related to quality that are publicly reported evidence-based measures endorsed through a multistakeholder process such as the National Quality Forum. The action plans shall also identify expected outcomes of these proposed action steps during the succeeding fiscal biennium and establish benchmarks for coordinating care and reducing the incidence of multiple chronic health conditions.

e. A detailed budget identifying all costs associated with implementing the action plans identified in sub-subdivision d. of this subdivision.

SECTION 3. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 18th day of June, 2013.

s/ Tom Apodaca
  Presiding Officer of the Senate

s/ Thom Tillis
  Speaker of the House of Representatives

s/ Pat McCrory
  Governor

Approved 4:36 p.m. this 26th day of June, 2013
Stricken language would be deleted from and underlined language would be added to present law.

Act 1498 of the Regular Session


HOUSE BILL 1143

By: Representatives J. Burris, Carter, Biviano
By: Senators J. Dismang, Bookout, D. Sanders, Irvin

For An Act To Be Entitled

AN ACT CONCERNING HEALTH INSURANCE FOR CITIZENS OF
THE STATE OF ARKANSAS; TO CREATE THE HEALTH CARE
INDEPENDENCE ACT OF 2013; TO DECLARE AN EMERGENCY;
AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE HEALTH CARE INDEPENDENCE
ACT OF 2013; AND TO DECLARE AN EMERGENCY.

WHEREAS, Arkansas has historically addressed state-specific needs to achieve personal responsibility and affordable health care for its citizens such as the ARHealthNetworks partnership between the state and small businesses; and

WHEREAS, Arkansas has initiated nationally recognized and transformative changes in the healthcare delivery system through alignment of payment incentives, health care delivery system improvements, enhanced rural health care access, initiatives to reduce waste, fraud and abuse, policies and plan structures to encourage the proper utilization of the healthcare system, and policies to advance disease prevention and health promotion; and

WHEREAS, Arkansas is uniquely situated to serve as a laboratory of comprehensive and innovative healthcare reform that can reduce the state and federal obligations to entitlement spending; and

WHEREAS, faced with the disruptive challenges from federal legislation

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and regulations, the General Assembly asserts its responsibility for local
control and innovation to achieve health care access, improved health care
quality, reduce traditional Medicaid enrollment, remove disincentives for
work and social mobility, and required cost-containment; and

WHEREAS, the General Assembly hereby creates the Health Care
Independence Act of 2013;

NOW THEREFORE,
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 77, is amended to create a
new subchapter to read as follows:

Subchapter 21 — Health Care Independence Act of 2013

20-77-2101. Title.
This act shall be known and may be cited as the "Health Care
Independence Act of 2013".

20-77-2102. Legislative intent.
(a) Notwithstanding any general or specific laws to the contrary, the
Department of Human Services is to explore design options that reform the
Medicaid Program utilizing the Health Care Independence Act of 2013 so that
it is a fiscally sustainable, cost-effective, personally responsible, and
opportunity-driven program utilizing competitive and value-based purchasing
to:

(1) Maximize the available service options;

(2) Promote accountability, personal responsibility, and
transparency;

(3) Encourage and reward healthy outcomes and responsible
choices; and

(4) Promote efficiencies that will deliver value to the
taxpayers.

(b)(1) It is the intent of the General Assembly that the State of
Arkansas through the Department of Human Services shall utilize a private
insurance option for “low-risk” adults.

(2) The Health Care Independence Act of 2013 shall ensure that:
   (A) Private health care options increase and government-operated programs such as Medicaid decrease; and
   (B) Decisions about the design, operation and implementation of this option, including cost, remain within the purview of the State of Arkansas and not with Washington, D.C.

20-77-2103. Purpose.
(a) The purpose of this subchapter is to:
   (1) Improve access to quality health care;
   (2) Attract insurance carriers and enhance competition in the Arkansas insurance marketplace;
   (3) Promote individually-owned health insurance;
   (4) Strengthen personal responsibility through cost-sharing;
   (5) Improve continuity of coverage;
   (6) Reduce the size of the state-administered Medicaid program;
   (7) Encourage appropriate care, including early intervention, prevention, and wellness;
   (8) Increase quality and delivery system efficiencies;
   (9) Facilitate Arkansas's continued payment innovation, delivery system reform, and market-driven improvements;
   (10) Discourage over-utilization; and
   (11) Reduce waste, fraud, and abuse.

(b) The State of Arkansas shall take an integrated and market-based approach to covering low-income Arkansans through offering new coverage opportunities, stimulating market competition, and offering alternatives to the existing Medicaid program.

20-77-2104. Definitions.
As used in this subchapter:
   (1) "Carrier" means a private entity certified by the State Insurance Department and offering plans through the Health Insurance Marketplace;
   (2) "Cost sharing" means the portion of the cost of a covered medical service that must be paid by or on behalf of eligible individuals,
consisting of copayments or coinsurance but not deductibles;

(3) "Eligible individuals" means individuals who:

(A) Are adults between nineteen (19) years of age and sixty-five (65) years of age with an income that is equal to or less than one hundred thirty-eight percent (138%) of the federal poverty level, including without limitation individuals who would not be eligible for Medicaid under laws and rules in effect on January 1, 2013;

(B) Have been authenticated to be a United States citizen or documented qualified alien according to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, as existing on January 1, 2013; and

(C) Are not determined to be more effectively covered through the standard Medicaid program, such as an individual who is medically frail or other individuals with exceptional medical needs for whom coverage through the Health Insurance Marketplace is determined to be impractical, overly complex, or would undermine continuity or effectiveness of care;

(4) "Healthcare coverage" means healthcare benefits as defined by certification or rules, or both, promulgated by the State Insurance Department for the Qualified Health Plans or available on the marketplace;

(5) "Health Insurance Marketplace" means the vehicle created to help individuals, families, and small businesses in Arkansas shop for and select health insurance coverage in a way that permits comparison of available Qualified Health Plan based upon price, benefits, services, and quality, regardless of the governance structure of the marketplace;

(6) "Premium" means a charge that must be paid as a condition of enrolling in health care coverage;

(7) "Program" means the Health Care Independence Program established by this subchapter;

(8) "Qualified Health Plan" means a State Insurance Department certified individual health insurance plan offered by a carrier through the Health Insurance Marketplace; and

(9) "Independence account" mean individual financing structures that operate similar to a health savings account or a medical savings account.
20-77-2105. Administration of the Health Care Independence Program.

(a) The Department of Human Services shall:

(1) Create and administer the Health Care Independence Program;

and

(2)(A) Submit and apply for any:

(i) Federal waivers necessary to implement the program in a manner consistent with this subchapter, including without limitation approval for a comprehensive waiver under Section 1115 of the Social Security Act, 42 U.S.C. § 1315; and

(ii)(a) Medicaid State Plan Amendments necessary to implement the program in a manner consistent with this subchapter.

(b) The Department of Human Services shall submit only those Medicaid State Plan Amendments under subdivision (a)(2)(A)(ii)(a) of this section that are optional and therefore may be revoked by the state at its discretion.

(B)(i) As part of its actions under subdivision (a)(2)(A) of this section, the Department of Human Services shall confirm that employers shall not be subject to the penalties, including without limitation an assessable payment, under Section 1513 of Pub. L. No. 111-148, as existing on January 1, 2013, concerning shared responsibility, for employees who are eligible individuals if the employees:

(a) Are enrolled in the program; and

(b) Enroll in a Qualified Health Plan through the Health Insurance Marketplace.

(ii) If the Department of Human Services is unable to confirm provisions under subdivision (a)(2)(B)(i) of this section, the program shall not be implemented.

(b)(1) Implementation of the program is conditioned upon the receipt of necessary federal approvals.

(2) If the Department of Human Services does not receive the necessary federal approvals, the program shall not be implemented.

(c) The program shall include premium assistance for eligible individuals to enable their enrollment in a Qualified Health Plan through the Health Insurance Marketplace.

(d)(1) The Department of Human Services is specifically authorized to pay premiums and supplemental cost-sharing subsidies directly to the
Qualified Health Plans for enrolled eligible individuals.

(2) The intent of the payments under subdivision (d)(1) of this section is to increase participation and competition in the health insurance market, intensify price pressures, and reduce costs for both publicly and privately funded health care.

(e) To the extent allowable by law:

(1) The Department of Human Services shall pursue strategies that promote insurance coverage of children in their parents’ or caregivers’ plan, including children eligible for the ARKids First Program Act, § 20-77-1101 et seq., commonly known as the "ARKids B program"; and

(2) Upon the receipt of necessary federal approval, during calendar year 2015 the Department of Human Services shall include and transition to the Health Insurance Marketplace:

(A) Children eligible for the ARKids First Program Act, § 20-77-1101 et seq.; and

(B) Populations under Medicaid from zero percent (0%) of the federal poverty level to seventeen percent (17%) of the federal poverty level.

(3) The Department of Human Services shall develop and implement a strategy to inform Medicaid recipient populations whose needs would be reduced or better served through participation in the Health Insurance Marketplace.

(f) The program shall include allowable cost sharing for eligible individuals that is comparable to that for individuals in the same income range in the private insurance market and is structured to enhance eligible individuals’ investment in their health care purchasing decisions.

(g)(1) The State Insurance Department and Department of Human Services shall administer and promulgate rules to administer the program authorized under this subchapter.

(2) No less than thirty (30) days before the State Insurance Department and Department of Human Services begin promulgating a rule under this subchapter, the proposed rule shall be presented to the Legislative Council.

(h) The program authorized under this subchapter shall terminate within one hundred twenty (120) days after a reduction in any of the following federal medical assistance percentages:
(1) One hundred percent (100%) in 2014, 2015, or 2016;

(2) Ninety-five percent (95%) in 2017;

(3) Ninety-four percent (94%) in 2018;

(4) Ninety-three percent (93%) in 2019; and

(5) Ninety percent (90%) in 2020 or any year after 2020.

(i) An eligible individual enrolled in the program shall affirmatively acknowledge that:

(1) The program is not a perpetual federal or state right or a guaranteed entitlement;

(2) The program is subject to cancellation upon appropriate notice; and

(3) The program is not an entitlement program.

(j)(1) The Department of Human Services shall develop a model and seek from the Center for Medicare and Medicaid Services all necessary waivers and approvals to allow non-aged, non-disabled program-eligible participants to enroll in a program that will create and utilize Independence Accounts that operate similar to a Health Savings Account or Medical Savings Account during the calendar year 2015.

(2) The Independence Accounts shall:

   (A) Allow a participant to purchase cost-effective high-deductible health insurance; and

   (B) Promote independence and self-sufficiency.

(3) The state shall implement cost sharing and co-pays and, as a condition of participation, earnings shall exceed fifty percent (50%) of the federal poverty level.

(4) Participants may receive rewards based on healthy living and self-sufficiency.

(5)(A) At the end of each fiscal year, if there are funds remaining in the account, a majority of the state’s contribution will remain in the participant’s control as a positive incentive for the responsible use of the health care system and personal responsibility of health maintenance.

   (B) Uses of the funds may include without limitation rolling the funds into a private sector health savings account for the participant according to rules promulgated by the Department of Human Services.
(6) The Department of Human Services shall promulgate rules to implement this subsection (i).

(k)(1) State obligations for uncompensated care shall be projected, tracked, and reported to identify potential incremental future decreases.

(2) The Department of Human Services shall recommend appropriate adjustments to the General Assembly.

(3) Adjustments shall be made by the General Assembly as appropriate.

(l) The Department of Human Services shall track the Hospital Assessment Fee as defined in § 20-77-1902 and report to the General Assembly subsequent decreases based upon reduced uncompensated care.

(m) On a quarterly basis, the Department of Human Services and the State Insurance Department shall report to the Legislative Council or to the Joint Budget Committee if the General Assembly is in session, available information regarding:

(1) Program enrollment;

(2) Patient experience;

(3) Economic impact including enrollment distribution;

(4) Carrier competition; and

(5) Avoided uncompensated care.

20-77-2106. Standards of healthcare coverage through the Health Insurance Marketplace.

(a) Healthcare coverage shall be achieved through a qualified health plan at the silver level as provided in 42 U.S.C. §§ 18022 and 18071, as existing on January 1, 2013, that restricts cost sharing to amounts that do not exceed Medicaid cost-sharing limitations.

(b)(1) All participating carriers in the Health Insurance Marketplace shall offer healthcare coverage conforming to the requirements of this subchapter.

(2) A participating carrier in the Health Insurance Marketplace shall maintain a medical loss ratio of at least eighty percent (80%) for an individual and small group market policy and at least eighty-five percent (85%) for a large group market policy as required under Pub. L. No. 111-148, as existing on January 1, 2013.

(c) To assure price competitive choice among healthcare coverage
options, the State Insurance Department shall assure that at least two (2) qualified health plans are offered in each county in the state.

(d) Health insurance carriers offering health care coverage for program eligible individuals shall participate in Arkansas Payment Improvement Initiatives including:

1. Assignment of primary care clinician;
2. Support for patient-centered medical home; and
3. Access of clinical performance data for providers.

(e) On or before July 1, 2013, the State Insurance Department shall implement through certification requirements, rule, or both the applicable provisions of this subchapter.

20-77-2107. Enrollment.

(a) The General Assembly shall assure that a mechanism within the Health Insurance Marketplace is established and operated to facilitate enrollment of eligible individuals.

(b) The enrollment mechanism shall include an automatic verification system to guard against waste, fraud, and abuse in the program.

20-77-2108. Effective date.

This subchapter shall be in effect until June 30, 2017, unless amended or extended by the General Assembly.

SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 11, is amended to add an additional section to read as follows:


(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the “Health Care Independence Program Trust Fund”.

(b)(1) The Health Care Independence Program Trust Fund may consist of moneys saved and accrued under the Health Care Independence Act of 2013, § 20-77-2101 et seq., including without limitation:

(A) Increases in premium tax collections;
(B) Reductions in uncompensated care; and
(C) Other spending reductions resulting from the Health Care Independence Act of 2013, 20-77-2101 et seq.
(2) The fund shall also consist of other revenues and funds authorized by law.

(c) The fund may be used by the Department of Human Services to pay for future obligations under the Health Care Independence Program created by the Health Care Independence Act of 2013, § 20-77-2101 et seq.

SECTION 3. NOT TO BE CODIFIED. (a) The implementation of this act is suspended until an appropriation for the implementation of this act is passed by a three-fourths vote of both houses of the Eighty-Ninth General Assembly.

(b) If an appropriation for the implementation of this act is not passed by the Eighty-Ninth General Assembly, this act is void.

SECTION 4. NOT TO BE CODIFIED. The enactment and adoption of this act shall supersede Section 21 of HB1219 of the Eighty-Ninth General Assembly, if Section 21 of HB1219 of the Eighty-Ninth General Assembly is enacted and adopted.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Health Care Independence Program requires private insurance companies to create, present to the Department of Human Services for approval, implement, and market a new kind of insurance policy; and that the private insurance companies need certainty about the law creating the Health Care Independence Program before fully investing time, funds, personnel, and other resources to the development of the new insurance policies. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;
(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/J. Burris

APPROVED: 04/23/2013
the Department of Healthcare and Family Services. The Department shall have the powers and authority granted to the Department under the Illinois Public Aid Code, including, but not limited to, Section 11-5.1 of the Code. The Department may contract with a Third Party Administrator or other entities to administer and oversee any portion of this Program.

(Source: P.A. 95-331, eff. 8-21-07.)

(215 ILCS 106/21 new)

Sec. 21. Presumptive eligibility. Beginning on the effective date of this amendatory Act of the 96th General Assembly and except where federal law requires presumptive eligibility, no adult may be presumed eligible for health care coverage under the Program, and the Department may not cover any service rendered to an adult unless the adult has completed an application for benefits, all required verifications have been received and the Department or its designee has found the adult eligible for the date on which that service was provided. Nothing in this Section shall apply to pregnant women.

(215 ILCS 106/23 new)

Sec. 23. Care coordination.

(a) At least 50% of recipients eligible for comprehensive medical benefits in all medical assistance programs or other health benefit programs administered by the Department, including the Children's Health Insurance Program Act and the
Covering ALL KIDS Health Insurance Act, shall be enrolled in a care coordination program by no later than January 1, 2015. For purposes of this Section, "coordinated care" or "care coordination" means delivery systems where recipients will receive their care from providers who participate under contract in integrated delivery systems that are responsible for providing or arranging the majority of care, including primary care physician services, referrals from primary care physicians, diagnostic and treatment services, behavioral health services, in-patient and outpatient hospital services, dental services, and rehabilitation and long-term care services. The Department shall designate or contract for such integrated delivery systems (i) to ensure enrollees have a choice of systems and of primary care providers within such systems; (ii) to ensure that enrollees receive quality care in a culturally and linguistically appropriate manner; and (iii) to ensure that coordinated care programs meet the diverse needs of enrollees with developmental, mental health, physical, and age-related disabilities.

(b) Payment for such coordinated care shall be based on arrangements where the State pays for performance related to health care outcomes, the use of evidence-based practices, the use of primary care delivered through comprehensive medical homes, the use of electronic medical records, and the appropriate exchange of health information electronically made either on a capitated basis in which a fixed monthly premium
per recipient is paid and full financial risk is assumed for the delivery of services, or through other risk-based payment arrangements.

(c) To qualify for compliance with this Section, the 50% goal shall be achieved by enrolling medical assistance enrollees from each medical assistance enrollment category, including parents, children, seniors, and people with disabilities to the extent that current State Medicaid payment laws would not limit federal matching funds for recipients in care coordination programs. In addition, services must be more comprehensively defined and more risk shall be assumed than in the Department's primary care case management program as of the effective date of this amendatory Act of the 96th General Assembly.

(d) The Department shall report to the General Assembly in a separate part of its annual medical assistance program report, beginning April, 2012 until April, 2016, on the progress and implementation of the care coordination program initiatives established by the provisions of this amendatory Act of the 96th General Assembly. The Department shall include in its April 2011 report a full analysis of federal laws or regulations regarding upper payment limitations to providers and the necessary revisions or adjustments in rate methodologies and payments to providers under this Code that would be necessary to implement coordinated care with full financial risk by a party other than the Department.
AN ACT CONCERNING CARE COORDINATION FOR CHRONIC DISEASE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective October 1, 2014) (a) The Commissioner of Public Health, in consultation with the Lieutenant Governor, or the Lieutenant Governor's designee, and local and regional health departments, shall, within available resources, develop a plan that is consistent with the Department of Public Health's Healthy Connecticut 2020 health improvement plan and the state healthcare innovation plan developed pursuant to the State Innovation Model Initiative by the Centers for Medicare and Medicaid Services Innovation Center. The commissioner shall develop and implement such plan to: (1) Reduce the incidence of chronic disease, including, but not limited to, chronic cardiovascular disease, cancer, lupus, stroke, chronic lung disease, diabetes, arthritis or another chronic metabolic disease and the effects of behavioral health disorders; (2) improve chronic disease care coordination in the state; and (3) reduce the incidence and effects of chronic disease and improve outcomes for conditions associated with chronic disease in the state.

(b) The commissioner shall, on or before January 15, 2015, and biennially thereafter, submit a report, in consultation with the
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Lieutenant Governor or the Lieutenant Governor's designee, in accordance with the provisions of section 11-4a of the general statutes to the joint standing committee of the General Assembly having cognizance of matters relating to public health concerning chronic disease and implementation of the plan described in subsection (a) of this section. The commissioner shall post each report on the Department of Public Health's Internet web site not later than thirty day after submitting such report. Each report shall include, but need not be limited to: (1) A description of the chronic diseases that are most likely to cause a person's death or disability, the approximate number of persons affected by such chronic diseases and an assessment of the financial effects of each such disease on the state and on hospitals and health care facilities; (2) a description and assessment of programs and actions that have been implemented by the department and health care providers to improve chronic disease care coordination and prevent chronic disease; (3) the sources and amounts of funding received by the department to treat persons with multiple chronic diseases and to treat or reduce the most prevalent chronic diseases in the state; (4) a description of chronic disease care coordination between the department and health care providers, to prevent and treat chronic disease; and (5) recommendations concerning actions that health care providers and persons with chronic disease may take to reduce the incidence and effects of chronic disease.

Approved June 6, 2014
Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-1626a is hereby amended to read as follows: 65-1626a. (a) For the purpose of the pharmacy act of the state of Kansas, the following persons shall be deemed to be engaged in the practice of pharmacy:

(1) Persons who publicly profess to be a pharmacist, or publicly profess to assume the duties incident to being a pharmacist and their knowledge of drugs or drug actions, or both; and

(2) persons who attach to their name any words or abbreviation indicating that they are a pharmacist licensed to practice pharmacy in Kansas.

(b) (1) “Practice of pharmacy” means the interpretation and evaluation of prescription orders; the compounding, dispensing and labeling of drugs and devices pursuant to prescription orders; the proper and safe storage of prescription drugs and prescription devices and the maintenance of proper records thereof in accordance with law; consultation with patients and other health care practitioners about the safe and effective use of prescription drugs and prescription devices; performance of collaborative drug therapy management pursuant to a written collaborative practice agreement with one or more physicians who have an established physician-patient relationship; and participation in the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy. Nothing in this subsection shall be construed to add any additional requirements for registration or for a permit under the pharmacy act of the state of Kansas or for approval under subsection (g) of K.S.A. 65-1643, and amendments thereto, or to prevent persons other than pharmacists from engaging in drug utilization review, or to require persons lawfully in possession of prescription drugs or prescription devices to meet any storage or record keeping requirements except such storage and record keeping requirements as may be otherwise provided by law or to affect any person consulting with a health care practitioner about the safe and effective use of prescription drugs or prescription devices.

(2) “Collaborative drug therapy management” means a practice of pharmacy where a pharmacist performs certain pharmaceutical-related patient care functions for a specific patient which have been delegated to the pharmacist by a physician through a collaborative practice agreement. A physician who enters into a collaborative practice agreement is responsible for the care of the patient following initial diagnosis and assessment and for the direction and supervision of the pharmacist throughout the collaborative drug therapy management process. Nothing in this subsection shall be construed to permit a pharmacist to alter a physician’s orders or directions, diagnose or treat any disease, independently prescribe drugs or independently practice medicine and surgery.

(3) “Collaborative practice agreement” means a written agreement or protocol between one or more pharmacists and one or more physicians that provides for collaborative drug therapy management. Such collaborative practice agreement shall contain certain specified conditions or limitations pursuant to the collaborating physician’s order, standing order, delegation or protocol. A collaborative practice agreement shall be: (A) Consistent with the normal and customary specialty, competence and lawful practice of the physician; and (B) appropriate to the pharmacist’s training and experience.

(4) “Physician” means a person licensed to practice medicine and surgery in this state.

Sec. 2. K.S.A. 2013 Supp. 65-1637b is hereby amended to read as follows: 65-1637b. (a) The pharmacist shall exercise professional judgment regarding the accuracy, validity and authenticity of any prescription order consistent with federal and state laws and rules and regulations. A pharmacist shall not dispense a prescription drug if the pharmacist, in the exercise of professional judgment, determines that the prescription is not a valid prescription order.
registrant’s continuation of pharmacist intern functions would constitute an imminent danger to the public health and safety.

(3) Proceedings under this section shall be subject to the Kansas administrative procedure act.

(e) Every registered pharmacist intern, within 30 days of obtaining new employment, shall furnish the board’s executive secretary notice of the name and address of the new employer.

(f) Each pharmacy shall at all times maintain a list of the names of pharmacist interns employed by the pharmacy. A pharmacist intern shall work under the direct supervision and control of a pharmacist. It shall be the responsibility of the supervising pharmacist to determine that the pharmacist intern is in compliance with the applicable rules and regulations of the board, and the supervising pharmacist shall be responsible for the acts and omissions of the pharmacist intern in the performance of the pharmacist intern’s duties.

(g) A person holding a pharmacist intern registration shall display such registration in that part of the place of business in which such person is engaged in pharmacist intern activities.

(h) The board shall adopt such rules and regulations as are necessary to ensure that pharmacist interns are adequately trained as to the nature and scope of their lawful duties. The board may adopt rules and regulations as may be necessary to carry out the purposes of and enforce the provisions of this section.

(i) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 9. (a) Not later than 90 days after the effective date of this act, the state board of pharmacy and the state board of healing arts shall appoint a seven-member committee to be known as the collaborative drug therapy management advisory committee for the purpose of promoting consistent regulation and to enhance coordination among such boards with jurisdiction over licensees involved in collaborative drug therapy management. Such committee shall advise and make recommendations to the state board of pharmacy and state board of healing arts on matters relating to collaborative drug therapy management.

(b) The collaborative drug therapy management advisory committee shall consist of seven members: (1) One member of the board of pharmacy appointed by the board of pharmacy, who shall serve as the non-voting chairperson; (2) three licensed pharmacists appointed by the state board of pharmacy, at least two of whom shall have experience in collaborative drug therapy management; and (3) three persons licensed to practice medicine and surgery appointed by the state board of healing arts, at least two of whom shall have experience in collaborative drug therapy management. The state board of pharmacy shall give consideration to any names submitted by the Kansas pharmacists association when making appointments to the committee. The state board of healing arts shall give consideration to any names submitted by the Kansas medical society when making appointments to the committee. Members appointed to the committee shall serve terms of two years, except that of the four members of the committee first appointed to the committee by the state board of pharmacy, two shall be appointed for terms of two years and two shall be appointed for terms of one year as specified by the state board of pharmacy and that of the three members of the committee first appointed to the committee by the state board of healing arts, two shall be appointed for terms of two years and one shall be appointed for a term of one year as specified by the state board of healing arts. Members appointed to the committee shall serve without compensation. All expenses of the committee shall be equally divided and paid by the state board of pharmacy and state board of healing arts.

(c) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

ACT No. 346

Regular Session, 2014

HOUSE BILL NO. 891

BY REPRESENTATIVES STOKES AND SIMON

AN ACT

To enact Part LXXV of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1300.381 through 1300.386, relative to access to treatment for terminally ill patients; to provide for findings, definitions, intent, and construction; to authorize provision of certain pharmaceutical and therapeutic products by manufacturers; to specify that gratuitous provision and insurance coverage of certain treatments are not required; to provide for limitation of liability; to prohibit actions against licenses of physicians in specific instances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part LXXV of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1300.381 through 1300.386, is hereby enacted to read as follows:

PART LXXV. ACCESS TO TREATMENT FOR TERMINALLY ILL PATIENTS

§1300.381. Short title

This Part shall be known and may be cited as the "Right To Try Act".

§1300.382. Legislative findings

The Legislature of Louisiana hereby finds and declares the following:

(1) The process of approval for investigational drugs, biological products, and devices in the United States often takes many years.

(2) A patient who has a terminal illness does not have the luxury of waiting until an investigational drug, biological product, or device receives final approval from the United States Food and Drug Administration.
(3) The standards of the United States Food and Drug Administration for the
use of investigational drugs, biological products, and devices may deny the benefits
of potentially life-saving treatments to terminally ill patients.

(4) A patient with a terminal illness has a fundamental right to attempt to
preserve his own life by accessing available investigational drugs, biological
products, and devices.

(5) Whether to use available investigational drugs, biological products, or
devices is a decision that rightfully should be made by the patient with a terminal
illness in consultation with his physician, and is not a decision to be made by the
government.

§1300.383. Definitions

As used in this Part, the following terms have the meaning ascribed to them
in this Section:

(1) "Eligible patient" means a person to whom all of the following criteria
apply:

(a) Has a terminal illness.

(b) As determined by the person's physician, has no comparable or
satisfactory treatment options that are approved by the United States Food and Drug
Administration and available to diagnose, monitor, or treat the person's disease or
condition, and the probable risk to the person from the investigational drug,
biological product, or device is not greater than the probable risk from the person's
disease or condition.

(c) Has received a prescription or recommendation from his physician for an
investigational drug, biological product, or device.

(d) Has given his consent in writing for the use of the investigational drug,
biological product, or device; or, if he is a minor or lacks the mental capacity to
provide consent, a parent or legal guardian has given consent in writing on his
behalf.

(e) Has documentation from his physician indicating that he has met the
requirements provided in this Part.
(2) "Investigational drug, biological product, or device" means a drug, biological product, or device that has successfully completed phase one of a United States Food and Drug Administration approved clinical trial, but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial.

(3) "Terminal illness" means a disease that, without life-sustaining procedures, will result in death in the near future or a state of permanent unconsciousness from which recovery is unlikely. This diagnosis shall be confirmed by a second independent evaluation by a board-certified physician in an appropriate speciality.

§1300.384. Availability of drugs, biological products, and devices; costs; insurance coverage

A.(1) A manufacturer of an investigational drug, biological product, or device may make available such drug, product, or device to eligible patients in accordance with the provisions of this Section.

(2) Nothing in this Section shall be construed to require a manufacturer to make available any drug, product, or device.

B. A manufacturer may do any of the following:

(1) Provide an investigational drug, biological product, or device to an eligible patient without receiving compensation.

(2) Require an eligible patient to pay the costs of or associated with the manufacture of the investigational drug, biological product, or device.

C.(1) A health insurance issuer may choose to provide coverage for the cost of an investigational drug, biological product, or device.

(2) Nothing in this Section shall be construed to require a health insurance issuer to provide coverage for the cost of any investigational drug, biological product, or device.

§1300.385. Limitation of liability

Notwithstanding any provision of law to the contrary, a physician who prescribes an investigational drug, biological product, or device to an eligible patient
pursuant to the provisions of this Part shall be immune from civil liability, including
but not limited to any cause of action arising under R.S. 40:1299.41 et seq., for any
adverse action, condition, or other outcome resulting from the patient's use of the
investigational drug, biological product, or device.

§1300.386. Action against physician license prohibited

Notwithstanding any provision of law to the contrary, the Louisiana State
Board of Medical Examiners shall not revoke, fail to renew, or take any other action
against the license of a physician issued pursuant to the provisions of R.S. 37:1261,
et seq. based solely upon the recommendation of the physician to an eligible patient
regarding, or prescription for, or treatment with, an investigational drug, biological
product, or device when such recommendation, prescription, or treatment is
undertaken in strict conformance with the provisions of this Part.

Section 2. The Louisiana State Law Institute is hereby directed to redesignate the
numbers of the Sections of statute enacted by this Act in a manner that comports with the
technical recodification provisions of the Act which originated as House Bill No. 667 of this
2014 Regular Session of the Legislature.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ___________________
AN ACT CREATING THE MONTANA SUICIDE REVIEW TEAM; ESTABLISHING MEMBERSHIP REQUIREMENTS; ESTABLISHING A PROCESS FOR OBTAINING AND REVIEWING INFORMATION RELATED TO SUICIDES; PROVIDING CONFIDENTIALITY; PROVIDING PENALTIES; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 50-16-522, 50-16-525, 50-16-804, 50-16-805, AND 53-21-1102, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Statement of policy -- access to information. (1) The prevention of suicide is both the policy of the state of Montana and a community responsibility. Many community professionals have expertise that can be used to promote strategies and supports to prevent suicide. The use of these professionals in reviewing suicides can lead to a greater understanding of the causes of death and the methods of preventing deaths.

(2) It is the intent of the legislature to establish the Montana suicide review team to study the incidence and causes of suicides in Montana and to make recommendations for community or statewide change, if appropriate, that may help prevent future deaths.

Section 2. Montana suicide review team -- duties. (1) There is a Montana suicide review team established to review the circumstances related to suicides and to make recommendations to the governor. Activities by the suicide review team are limited to:

(a) performing an in-depth analysis of suicides that occur in Montana, including a review of records available by law;

(b) compiling statistics related to suicides for use in reports published by the department;

(c) analyzing the causes of suicides; and

(d) recommending measures to prevent future suicides.

(2) The Montana suicide review team may not review suicides that occur within the boundaries of an Indian reservation if the tribal government opposes the review.
The Montana suicide review team shall provide a report to the governor before the end of each biennium that summarizes the review team's work and recommendations.

Section 3. Montana suicide review team -- membership -- meetings. (1) The Montana suicide review team consists of:

(a) six members appointed by the governor; and
(b) the suicide prevention officer provided for in 53-21-1101, who shall serve as a nonvoting member.

(2) (a) The governor shall appoint as members of the team:

(i) one psychiatrist licensed under Title 37, chapter 3;
(ii) one psychologist licensed under Title 37, chapter 17;
(iii) one clinical social worker licensed under Title 37, chapter 22, or one clinical professional counselor licensed under Title 37, chapter 23; and
(iv) one member of the clergy as defined in 15-6-201.

(b) The governor shall appoint two members from among the following:

(i) a nurse licensed under Title 37, chapter 8, to practice as a registered professional nurse or as an advanced practice registered nurse;
(ii) a physician assistant licensed under Title 37, chapter 20;
(iii) a representative of a tribal health department nominated by the tribal government;
(iv) a representative of the U.S. department of veterans affairs;
(v) a representative of an organization that advocates for individuals with mental illness and their family members;
(vi) a law enforcement representative;
(vii) a forensic pathologist; or
(viii) a county coroner.

(3) Appointed members shall serve a term of 3 years and may be reappointed.

(4) The suicide review team shall meet at least eight times a year.

(5) Members of the suicide review team who are not employees of a public agency may be paid a stipend.

(6) (a) Except as provided in subsection (6)(b), members are eligible for reimbursement for travel
expenses as provided for in 2-18-501 through 2-18-503.

(b) A member who is an employee of a public agency may be reimbursed for travel and meal expenses only if the member travels to a meeting held in a location other than the location where the member lives or is employed.

(7) The suicide review team is attached to the department for administrative purposes only under 2-15-121.

Section 4. Disclosure of information -- confidentiality. (1) The department shall provide the Montana suicide review team with a copy of each death certificate filed with the state that lists suicide as the cause of death. The department may not charge a fee for providing the death certificate.

(2) The suicide review team may request and may receive information from:

(a) a county coroner;

(b) the state medical examiner provided for in 44-3-201;

(c) an appropriate tribal official as designated by a tribe; and

(d) a health care provider as permitted in Title 50, chapter 16, part 5 or 8, or applicable federal law.

(3) Upon request of the Montana suicide review team, a health care provider may disclose information about a patient without the patient's authorization or without the authorization of the representative of a patient who is deceased.

(4) The review team shall maintain the confidentiality of the information received pursuant to [sections 1 through 6].

(5) Materials and information obtained by the Montana suicide review team are not subject to subpoena or to the requirements related to public records under Title 2, chapter 6.

Section 5. Unauthorized disclosure -- civil penalty. A person aggrieved by the use of information obtained pursuant to [section 4] for a purpose not authorized by [sections 1 through 6] may bring a civil action for damages, costs, and fees as provided in 50-16-553 or 50-16-817.

Section 6. Unauthorized disclosure -- misdemeanor. A person who knowingly uses information obtained pursuant to [section 4] for a purpose not authorized by [sections 1 through 6] is guilty of a misdemeanor
and upon conviction is punishable as provided in 46-18-212.

Section 7. Section 50-16-522, MCA, is amended to read:

"50-16-522. Representative of deceased patient. Except as provided in [section 4], a personal representative of a deceased patient may exercise all of the deceased patient's rights under this part. If there is no personal representative or upon discharge of the personal representative, a deceased patient's rights under this part may be exercised by the surviving spouse, a parent, an adult child, an adult sibling, or any other person who is authorized by law to act for the deceased patient."

Section 8. Section 50-16-525, MCA, is amended to read:

"50-16-525. Disclosure by health care provider. (1) Except as authorized in 50-16-529, 50-16-530, and 50-19-402, and [section 4] or as otherwise specifically provided by law or the Montana Rules of Civil Procedure, a health care provider, an individual who assists a health care provider in the delivery of health care, or an agent or employee of a health care provider may not disclose health care information about a patient to any other person without the patient's written authorization. A disclosure made under a patient's written authorization must conform to the authorization.

(2) A health care provider shall maintain, in conjunction with a patient's recorded health care information, a record of each person who has received or examined, in whole or in part, the recorded health care information during the preceding 3 years, except for a person who has examined the recorded health care information under 50-16-529(1) or (2). The record of disclosure must include the name, address, and institutional affiliation, if any, of each person receiving or examining the recorded health care information, the date of the receipt or examination, and to the extent practicable a description of the information disclosed."

Section 9. Section 50-16-804, MCA, is amended to read:

"50-16-804. Representative of deceased patient's estate. Except as provided in [section 4], a personal representative of a deceased patient's estate may exercise all of the deceased patient's rights under this part. If there is no personal representative or upon discharge of the personal representative, a deceased patient's rights under this part may be exercised by the surviving spouse, a parent, an adult child, an adult sibling, or any other person who is authorized by law to act for the deceased person."
Section 10. Section 50-16-805, MCA, is amended to read:

"50-16-805. Disclosure of information for workers' compensation and occupational disease claims and law enforcement purposes allowed for certain purposes. (1) To the extent provided in 39-71-604 and 50-16-527, a signed claim for workers' compensation or occupational disease benefits authorizes disclosure to the workers' compensation insurer, as defined in 39-71-116, by the health care provider.

(2) A health care provider may disclose health care information about an individual for law enforcement purposes if the disclosure is to:
   (a) federal, state, or local law enforcement authorities to the extent required by law; or
   (b) a law enforcement officer about the general physical condition of a patient being treated in a health care facility if the patient was injured by the possible criminal act of another.

(3) A health care provider may disclose health care information to the Montana suicide review team for the purposes of [sections 1 through 6]."

Section 11. Section 53-21-1102, MCA, is amended to read:

"53-21-1102. Suicide reduction plan. (1) The department of public health and human services shall produce a biennial suicide reduction plan that must be submitted to the legislature as provided in 5-11-210.

(2) The plan must include:
   (a) an assessment of both risk and protective factors impacting Montana's suicide rate;
   (b) specific activities to reduce suicide;
   (c) concrete targets for suicide reduction among various demographic populations, including but not limited to American Indians, veterans, and youth;
   (d) measurable outcomes for all activities; and
   (e) information on all existing state suicide reduction activities for all state agencies, as well as including but not limited to statistics from and recommendations by the Montana suicide review team and information from any known local or tribal suicide reduction activities.

(3) Upon the development of a suicide reduction plan draft, the department shall initiate a public comment period of not less than 21 days during which members of mental health advocacy groups and other interested parties may submit comments on and suggestions for the plan. The department shall produce a final
plan, which takes public comment into account, no later than 60 days after the close of the comment period. The plan must be published on the department's website and submitted to the appropriate interim committee of the legislature, the director of the department, and the governor."

**Section 12. Appropriation.** There is appropriated from the general fund to the department of public health and human services $67,000 in each year of the biennium beginning July 1, 2013, for carrying out the activities of the Montana suicide review team as established in [sections 2 through 4].

**Section 13. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 14. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 53, chapter 21, part 11, and the provisions of Title 53, chapter 21, apply to [sections 1 through 6].

**Section 15. Effective date.** [This act] is effective July 1, 2013.

**Section 16. Termination.** [This act] terminates June 30, 2016.

- END -
An act relating to emergency allergy treatment; amending s. 381.88, F.S.; defining terms; expanding provisions to apply to all emergency allergy reactions, rather than to insect bites only; creating s. 381.885, F.S.; authorizing certain health care practitioners to prescribe epinephrine auto-injectors to an authorized entity; authorizing such entities to maintain a supply of epinephrine auto-injectors; authorizing certified individuals to use epinephrine auto-injectors; authorizing uncertified individuals to use epinephrine auto-injectors under certain circumstances; providing immunity from liability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 381.88, Florida Statutes, is amended to read:

381.88 Insect sting Emergency allergy treatment.—
(1) This section and s. 381.885 may be cited as the "Insect Sting Emergency Allergy Treatment Act."

(2) As used in this section and s. 381.885, the term:
(a) "Administer" means to directly apply an epinephrine auto-injector to the body of an individual.
(b) "Authorized entity" means an entity or organization at
or in connection with which allergens capable of causing a
severe allergic reaction may be present. The term includes, but
is not limited to, restaurants, recreation camps, youth sports
leagues, theme parks and resorts, and sports arenas. However, a
school as described in s. 1002.20(3)(i) is an authorized entity
for the purposes of subsection (5) only.

(c) "Authorized health care practitioner" means a licensed
practitioner authorized by the laws of the state to prescribe
drugs.

(d) "Department" means the Department of Health.

(e) "Epinephrine auto-injector" means a single-use device
used for the automatic injection of a premeasured dose of
epinephrine into the human body.

(f) "Self-administration" means an individual's
discretionary administration of an epinephrine auto-injector on
herself or himself.

(3)(2) The purpose of this section is to provide for the
certification of persons who administer lifesaving treatment to
persons who have severe allergic adverse reactions to insect
stings when a physician is not immediately available.

(4)(3) The department of Health may:

(a) Adopt rules necessary to administer this section.

(b) Conduct educational training programs as described in
subsection (5) (4), and approve programs conducted by other
persons or governmental agencies.

(c) Issue and renew certificates of training to persons
who have complied with this section and the rules adopted by the department.

(d) Collect fees necessary to administer this section.

(5) Educational training programs required by this section must be conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or an entity or individual approved by the department. The curriculum must include at least:

(a) Recognition of the symptoms of systemic reactions to food, insect stings, and other allergens; and

(b) The proper administration of a subcutaneous injection of epinephrine auto-injector.

(6) A certificate of training may be given to a person who:

(a) Is 18 years of age or older;

(b) Has, or reasonably expects to have, responsibility for or contact with at least one other person who has severe adverse reactions to insect stings as a result of his or her occupational or volunteer status, including, but not limited to, a camp counselor, scout leader, school teacher, forest ranger, tour guide, or chaperone; and

(c) Has successfully completed an educational training program as described in subsection (5).

(7) A person who successfully completes an educational training program may obtain a certificate upon payment of an
A certificate issued pursuant to this section authorizes the holder thereof to receive, upon presentment of the certificate, from any physician licensed in this state or from the department, a prescription for premeasured doses of epinephrine auto-injectors from an authorized health care practitioner or the department and the necessary paraphernalia for administration. The certificate also authorizes the holder thereof to possess and administer, in an emergency situation when a physician is not immediately available, the prescribed epinephrine auto-injector to a person experiencing suffering a severe allergic adverse reaction to an insect sting.

Section 2. Section 381.885, Florida Statutes, is created to read:

> 381.885  Epinephrine auto-injectors; emergency administration.—

1. PRESCRIBING TO AN AUTHORIZED ENTITY.—An authorized health care practitioner may prescribe epinephrine auto-injectors in the name of an authorized entity for use in accordance with this section, and pharmacists may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity.

2. MAINTENANCE OF SUPPLY.—An authorized entity may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this
section. Such epinephrine auto-injectors must be stored in accordance with the epinephrine auto-injector's instructions for use and with any additional requirements that may be established by the department. An authorized entity shall designate employees or agents who hold a certificate issued pursuant to s. 381.88 to be responsible for the storage, maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

(3) USE OF EPINEPHRINE AUTO-INJECTORS.—An individual who holds a certificate issued pursuant to s. 381.88 may, on the premises of or in connection with the authorized entity, use epinephrine auto-injectors prescribed pursuant to subsection (1) to:

(a) Provide an epinephrine auto-injector to a person who the certified individual in good faith believes is experiencing a severe allergic reaction for that person's immediate self-administration, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

(b) Administer an epinephrine auto-injector to a person who the certified individual in good faith believes is experiencing a severe allergic reaction, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

(4) EXPANDED AVAILABILITY.—An authorized entity that acquires a stock supply of epinephrine auto-injectors pursuant...
to a prescription issued by an authorized health care practitioner in accordance with this section may make the auto-injectors available to individuals other than certified individuals identified in subsection (3) who may administer the auto-injector to a person believed in good faith to be experiencing a severe allergic reaction if the epinephrine auto-injectors are stored in a locked, secure container and are made available only upon remote authorization by an authorized health care practitioner after consultation with the authorized health care practitioner by audio, televideo, or other similar means of electronic communication. Consultation with an authorized health care practitioner for this purpose is not considered the practice of telemedicine or otherwise construed as violating any law or rule regulating the authorized health care practitioner's professional practice.

(5) IMMUNITY FROM LIABILITY.—Any person, as defined under s. 1.01, including an authorized health care practitioner, a dispensing health care practitioner or pharmacist, an individual trainer under s. 381.88(5), and a person certified pursuant to s. 381.88(7), who possesses, administers, or stores an epinephrine auto-injector in compliance with this act, and an uncertified person who administers an epinephrine auto-injector as authorized under subsection (4) in compliance with this act, is afforded the civil liability immunity protections provided under s. 768.13.

Section 3. This act shall take effect July 1, 2014.
218A.390 Prescription Monitoring Program Compact.

The Prescription Monitoring Program compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I
PURPOSE

The purpose of this interstate compact is to provide a mechanism for state prescription monitoring programs to securely share prescription data to improve public health and safety. This interstate compact is intended to:

A. Enhance the ability of state prescription monitoring programs, in accordance with state laws, to provide an efficient and comprehensive tool for:
   1. Practitioners to monitor patients and support treatment decisions;
   2. Law enforcement to conduct diversion investigations where authorized by state law;
   3. Regulatory agencies to conduct investigations or other appropriate reviews where authorized by state law; and
   4. Other uses of prescription drug data authorized by state law for purposes of curtailing drug abuse and diversion; and

B. Provide a technology infrastructure to facilitate secure data transmission.

ARTICLE II
DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Authentication" means the process of verifying the identity and credentials of a person before authorizing access to prescription data;
B. "Authorize" means the process by which a person is granted access privileges to prescription data;
C. "Bylaws" means those bylaws established by the interstate commission pursuant to Article VIII for its governance, or for directing or controlling its actions and conduct;
D. "Commissioner" means the voting representative appointed by each member state pursuant to Article VI of this compact;
E. "Interstate commission" or "commission" means the interstate commission created pursuant to Article VI of this compact;
F. "Member state" means any state that has adopted a prescription monitoring program and has enacted the enabling compact legislation;
G. "Practitioner" means a person licensed, registered or otherwise permitted to prescribe or dispense a prescription drug;
H. "Prescription data" means data transmitted by a prescription monitoring program that contains patient, prescriber, dispenser, and prescription drug information;
I. "Prescription drug" means any drug required to be reported to a state prescription monitoring program and which includes but is not limited to substances listed in the federal Controlled Substances Act;
J. "Prescription Monitoring Program" means a program that collects, manages,
analyses, and provides prescription data under the auspices of a state;

K. "Requestor" means a person authorized by a member state who has initiated a request for prescription data;

L. "Rule" means a written statement by the interstate commission promulgated pursuant to Article VII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule;

M. "State" means any state, commonwealth, district, or territory of the United States;

N. "Technology infrastructure" means the design, deployment, and use of both individual technology based components and the systems of such components to facilitate the transmission of information and prescription data among member states; and

O. "Transmission" means the release, transfer, provision, or disclosure of information or prescription data among member states.

ARTICLE III
AUTHORIZED USES AND RESTRICTIONS ON THE PRESCRIPTION DATA
A. Under the Prescription Monitoring Program compact a member state:
   1. Retains its authority and autonomy over its prescription monitoring program and prescription data in accordance with its laws, regulations and policies;
   2. May provide, restrict or deny prescription data to a requestor of another state in accordance with its laws, regulations and policies;
   3. May provide, restrict or deny prescription data received from another state to a requestor within that state; and
   4. Has the authority to determine which requestors shall be authorized.

B. Prescription data obtained by a member state pursuant to this compact shall have the following restrictions:
   1. Be used solely for purposes of providing the prescription data to a requestor; and
   2. Not be stored in the states prescription monitoring program database, except for stored images, nor in any other database.

C. A state may limit the categories of requestors of another member state that will receive prescription data.

D. The commission shall promulgate rules establishing standards for requestor authentication.
   1. Every member state shall authenticate requestors according to the rules established by the commission.
   2. A member state may authorize its requestors to request prescription data from another member state only after such requestor has been authenticated.
   3. A member state that becomes aware of a requestor who violated the laws
or regulations governing the appropriate use of prescription data shall notify the state that transmitted the prescription data.

ARTICLE IV
TECHNOLOGY AND SECURITY
A. The commission shall establish security requirements through rules for the transmission of prescription data.
B. The commission shall foster the adoption of open (vendor- and technology-neutral) standards for the technology infrastructure.
C. The commission shall be responsible for acquisition and operation of the technology infrastructure.

ARTICLE V
FUNDING
A. The commission, through its member states, shall be responsible to provide for the payment of the reasonable expenses for establishing, organizing and administering the operations and activities of the interstate compact.
B. The interstate commission may levy on and collect annual dues from each member state to cover the cost of operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commissions annual budget as approved each year. The aggregate annual dues amount shall be allocated in an equitable manner and may consist of a fixed fee component as well as a variable fee component based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states. Such a formula shall take into account factors including, but not limited to the total number of practitioners or licensees within a member state. Fees established by the commission may be recalculated and assessed on an annual basis.
C. Notwithstanding the above or any other provision of law, the interstate commission may accept non-state funding, including grants, awards and contributions to offset, in whole or in part, the costs of the annual dues required under Article V, Section B.
D. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the member states, except by and with the authority of the member states.
E. The interstate commission shall keep accurate accounts of all receipts and disbursements subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the interstate commission shall be audited annually by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE VI
INTERSTATE COMMISSION
The member states hereby create the Interstate Prescription Monitoring Program Commission. The Prescription Monitoring Program compact shall be governed by an interstate commission comprised of the member states and not by a third-party group or federal agency. The activities of the commission are the formation of public policy and are a discretionary state function.
A. The commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. The commission shall consist of one (1) voting representative from each member state who shall be that state’s appointed compact commissioner and who is empowered to determine statewide policy related to matters governed by this compact. The compact commissioner shall be a policymaker within the agency that houses the states Prescription Monitoring Program.

C. In addition to the state commissioner, the state shall appoint a non-voting advisor who shall be a representative of the state Prescription Monitoring Program.

D. In addition to the voting representatives and non-voting advisor of each member state, the commission may include persons who are not voting representatives, but who are members of interested organizations as determined by the commission.

E. Each member state represented at a meeting of the commission is entitled to one vote. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the commission. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the commission, the appropriate appointing authority may delegate voting authority to another person from their state for a specified meeting. The bylaws may provide for meetings of the commission to be conducted by electronic communication.

F. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings.

G. The commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the commission, with the exception of rulemaking. During periods when the commission is not in session the executive committee shall oversee the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary.

H. The commission shall maintain a robust committee structure for governance (i.e., policy, compliance, education, technology, etc.) and shall include specific opportunities for stakeholder input.

I. The commission’s bylaws and rules shall establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records that would adversely affect personal privacy rights or proprietary interests.

J. The commission shall provide public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission may close a meeting, or portion
where it determines by a two-thirds (2/3) vote of the members present that an open meeting would be likely to:

1. Relate solely to the commissions internal personnel practices and procedures;
2. Discuss matters specifically exempted from disclosure by federal and state statute;
3. Discuss trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing a person of a crime, or formally censuring a person;
5. Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Discuss investigative records compiled for law enforcement purposes; or
7. Specifically relate to the commissions participation in a civil action or other legal proceeding.

K. For a meeting, or portion of a meeting, closed pursuant to this provision, the commissions legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptive provision. The commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission.

ARTICLE VII
POWERS AND DUTIES OF THE INTERSTATE COMMISSION
The commission shall have the following powers and duties:

A. To oversee and maintain the administration of the technology infrastructure;
B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact, provided that no member state shall be required to create an advisory committee. The rules shall have the force and effect of statutory law and shall be binding in the member states to the extent and in the manner provided in this compact;
C. To establish a process for member states to notify the commission of changes to a states prescription monitoring program statutes, regulations, or policies. This applies only to changes that would affect the administration of the compact;
D. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions;
E. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;
F. To establish and maintain one (1) or more offices;
G. To purchase and maintain insurance and bonds;
H. To borrow, accept, hire or contract for personnel or services;
I. To establish and appoint committees including, but not limited to, an executive committee as required by Article VI, Section G, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;
J. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commissions personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
K. To seek and accept donations and grants of money, equipment, supplies, materials, and services, and to utilize or dispose of them;
L. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;
M. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;
N. To establish a budget and make expenditures;
O. To adopt a seal and bylaws governing the management and operation of the interstate commission;
P. To report annually to the legislatures, Governors and Attorneys General of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission and shall be made publically available;
Q. To coordinate education, training and public awareness regarding the compact, its implementation and operation;
R. To maintain books and records in accordance with the bylaws;
S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact; and
T. To provide for dispute resolution among member states.

ARTICLE VIII
ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION
A. The interstate commission shall, by a majority of the members present and voting, within twelve (12) months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to:
1. Establishing the fiscal year of the interstate commission;
2. Establishing an executive committee, and such other committees as may be necessary for governing any general or specific delegation of authority or function of the interstate commission;
3. Providing procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;
4. Establishing the titles and responsibilities of the officers and staff of the interstate commission; and
5. Providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.

B. The interstate commission shall, by a majority of the members present, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

C. Executive Committee, Officers and Staff

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:
   a. Managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission;
   b. Overseeing an organizational structure within, and appropriate procedures for the interstate commission to provide for the administration of the compact; and
   c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the purpose of the interstate commission.

2. The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, but shall not be a member of the interstate commission. The executive director shall hire and supervise such other persons as may be authorized by the interstate commission.

D. The interstate commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the interstate commissions executive director and employees or interstate commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such persons state may not exceed the limits
of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The interstate commission shall defend the executive director, its employees, and subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorneys fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE IX
RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority - The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect. Any rules promulgated by the commission shall not override the states authority to govern prescription drugs or each states Prescription Monitoring Program.

B. Rulemaking Procedure - Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the interstate commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition
shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission’s authority.

ARTICLE X
OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact’s purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law but, shall not override the states authority to govern prescription drugs or the states Prescription Monitoring Program.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission.

3. The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, this compact or promulgated rules.

B. Default, Technical Assistance, Suspension and Termination - If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the interstate commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the interstate commission to the Governor, the majority and minority leaders of the defaulting state’s legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all
dues, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

6. The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

7. The defaulting state may appeal the action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorneys' fees.

C. Dispute Resolution

1. The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states.

2. The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution as appropriate.

D. Enforcement

1. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The interstate commission, may by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys' fees.

3. The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XI

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state that has enacted Prescription Monitoring Program legislation through statute or regulation is eligible to become a member state of this compact.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than six (6) of the states. Thereafter it shall become effective and binding on a state upon enactment of the compact into law by that state. The Governors of non-member states or their designees shall be invited to participate in the activities of the interstate commission on a non-voting basis prior to adoption of the compact by all states.

C. The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until
it is enacted into law by unanimous consent of the member states.

ARTICLE XII
WITHDRAWAL AND DISSOLUTION

A. Withdrawal
1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member state.

3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing states intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

B. Dissolution of the Compact
1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XIII
SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XIV
BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws
1. Nothing herein prevents the enforcement of any other law of a member
state that is not inconsistent with this compact.

B. Binding Effect of the Compact

1. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

2. All agreements between the interstate commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Effective: July 20, 2012


Legislative Research Commission Note (7/20/2012). 2012 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 12, Article XI, B. states that the compact contained in this statute "shall become effective and binding upon legislative enactment of the compact into law by no less than six states." At the time of the codification of this statute, that threshold had not been met.
An Act relating to records; creating the Student Data Accessibility, Transparency and Accountability Act of 2013; defining terms; requiring State Board of Education to create certain data inventory and to develop certain policies; prohibiting the transfer of certain data; providing certain exceptions; requiring a data security plan; requiring compliance with certain laws and policies; requiring certain contracts include privacy and security provisions; requiring Board to notify Governor and Legislature annually concerning certain information; requiring Board to adopt certain rules; providing for consideration of certain existing data; limiting interference with certain laws; providing for codification; providing an effective date; and declaring an emergency.

SUBJECT: Student Data Accessibility, Transparency and Accountability Act of 2013

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-168 of Title 70, unless there is created a duplication in numbering, reads as follows:
A. This section shall be known and may be cited as the "Student Data Accessibility, Transparency and Accountability Act of 2013".

B. As used in this act:

1. "Board" means the State Board of Education;

2. "Department" means the State Department of Education;

3. "Data system" means the Oklahoma State Department of Education student data system;

4. "Aggregate data" means data collected and/or reported at the group, cohort, or institutional level;

5. "De-identified data" means a student dataset in which parent and student identifying information, including the state-assigned student identifier, has been removed;

6. "Student testing number" means the unique student identifier assigned by the state to each student that shall not be or include the Social Security number of a student in whole or in part; and

7. "Student data" means data collected and/or reported at the individual student level included in a student's educational record.

   a. "Student data" includes:

      (1) state and national assessment results, including information on untested public school students,

      (2) course taking and completion, credits earned, and other transcript information,

      (3) course grades and grade point average,

      (4) date of birth, grade level and expected graduation date/graduation cohort,

      (5) degree, diploma, credential attainment, and other school exit information such as General Educational Development and drop-out data,

      (6) attendance and mobility,
(7) data required to calculate the federal four-year 
adjusted cohort graduation rate, including 
sufficient exit and drop-out information,

(8) discipline reports limited to objective 
information sufficient to produce the federal 
Title IV Annual Incident Report,

(9) remediation,

(10) special education data, and

(11) demographic data and program participation 
information.

b. Unless included in a student's educational record, 
"student data" shall not include:

(1) juvenile delinquency records,

(2) criminal records,

(3) medical and health records,

(4) student Social Security number, and

(5) student biometric information.

C. The State Board of Education shall:

1. Create, publish and make publicly available a data inventory 
and dictionary or index of data elements with definitions of 
individual student data fields currently in the student data system 
including:

   a. any individual student data required to be reported by 
      state and federal education mandates,

   b. any individual student data which has been proposed 
      for inclusion in the student data system with a 
      statement regarding the purpose or reason for the 
      proposed collection, and
c. any individual student data that the State Department of Education collects or maintains with no current purpose or reason;

2. Develop, publish and make publicly available policies and procedures to comply with the Federal Family Educational Rights and Privacy Act (FERPA) and other relevant privacy laws and policies, including but not limited to:

a. access to student and de-identified data in the student data system shall be restricted to:

(1) the authorized staff of the State Department of Education and the Department's contractors who require such access to perform their assigned duties, including staff and contractors from the Information Services Division of the Office of Management and Enterprise Services assigned to the Department,

(2) district administrators, teachers and school personnel who require such access to perform their assigned duties,

(3) students and their parents, and

(4) the authorized staff of other state agencies in Oklahoma as required by law and/or defined by interagency data-sharing agreements,

b. the State Department of Education shall use only aggregate data in public reports or in response to record requests in accordance with paragraph 3 of this subsection,

c. the State Department of Education shall develop criteria for the approval of research and data requests from state and local agencies, the State Legislature, researchers and the public:

(1) unless otherwise approved by the State Board of Education, student data maintained by the State Department of Education shall remain confidential, and
(2) unless otherwise approved by the State Board of Education to release student or de-identified data in specific instances, the Department may only use aggregate data in the release of data in response to research and data requests, and

d. notification to students and parents regarding their rights under federal and state law;

3. Unless otherwise approved by the State Board of Education, the State Department of Education shall not transfer student or de-identified data deemed confidential under division (1) of subparagraph c of paragraph 2 of subsection C of this section to any federal, state or local agency or other organization/entity outside of the State of Oklahoma, with the following exceptions:

a. a student transfers out of state or a school/district seeks help with locating an out-of-state transfer,

b. a student leaves the state to attend an out-of-state institution of higher education or training program,

c. a student registers for or takes a national or multistate assessment,

d. a student voluntarily participates in a program for which such a data transfer is a condition/requirement of participation,

e. the Department enters into a contract that governs databases, assessments, special education or instructional supports with an out-of-state vendor, or

f. a student is classified as "migrant" for federal reporting purposes;

4. Develop a detailed data security plan that includes:

a. guidelines for authorizing access to the student data system and to individual student data including guidelines for authentication of authorized access,

b. privacy compliance standards,

c. privacy and security audits,
d. breach planning, notification and procedures, and
e. data retention and disposition policies;

5. Ensure routine and ongoing compliance by the State Department of Education with FERPA, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of this act, including the performance of compliance audits;

6. Ensure that any contracts that govern databases, assessments or instructional supports that include student or de-identified data and are outsourced to private vendors include express provisions that safeguard privacy and security and include penalties for noncompliance; and

7. Notify the Governor and the Legislature annually of the following:

   a. new student data proposed for inclusion in the state student data system:

      (1) any new student data collection proposed by the State Board of Education becomes a provisional requirement to allow districts and their local data system vendors the opportunity to meet the new requirement, and

      (2) the State Board of Education must submit any new "provisional" student data collection to the Governor and the Legislature for their approval within one (1) year in order to make the new student data a permanent requirement. Any provisional student data collection not approved by the Governor and the Legislature by the end of the next legislative session expires and is no longer required,

   b. changes to existing data collections required for any reason, including changes to federal reporting requirements made by the U.S. Department of Education,

   c. an explanation of any exceptions granted by the State Board of Education in the past year regarding the
release or out-of-state transfer of student or de-
identified data, and

d. the results of any and all privacy compliance and
security audits completed in the past year.
Notifications regarding privacy compliance and
security audits shall not include any information that
would itself pose a security threat to the state or
local student information systems or to the secure
transmission of data between state and local systems
by exposing vulnerabilities.

D. The State Board of Education shall adopt rules for the State
Department of Education to implement the provisions of the Student
Data Accessibility, Transparency and Accountability Act of 2013.

E. Upon the effective date of this act, any existing collection
of student data by the State Department of Education shall not be
considered a new student data collection in accordance with
subparagraph a of paragraph 7 of subsection C of this section.

F. Nothing in this act shall interfere with the State
Department of Education's compliance with the Educational
Accountability Reform Act.

SECTION 2. This act shall become effective July 1, 2013.

SECTION 3. It being immediately necessary for the preservation
of the public peace, health and safety, an emergency is hereby
declared to exist, by reason whereof this act shall take effect and
be in full force from and after its passage and approval.
No. 69. An act relating to automated license plate recognition systems.

(S.18)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 23 V.S.A. § 1607 is added to read:

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) “Active data” is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.

(2) “Automated license plate recognition system” or “ALPR system” means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) “Historical data” means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.

(4) “Law enforcement officer” means a state police officer, municipal police officer, motor vehicle inspector, capitol police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as
having satisfactorily completed the approved training programs required to
meet the minimum training standards applicable to that person under 20 V.S.A.
§ 2358.

(5) “Legitimate law enforcement purpose” applies to access to active or
historical data and means investigation, detection, analysis, or enforcement of a
crime, traffic violation, or parking violation or operation of AMBER alerts or
missing or endangered person searches.

(6) “Vermont Information and Analysis Center Analyst” means any
sworn or civilian employee who through his or her employment with the
Vermont Information and Analysis Center (VTIAC) has access to secure
databases that support law enforcement investigations.

(b) Operation. A Vermont law enforcement officer shall be certified in
ALPR operation by the Vermont Criminal Justice Training Council in order to
operate an ALPR system.

(c) ALPR use and data access; confidentiality.

(1)(A) Deployment of ALPR equipment is intended to provide access to
law enforcement reports of wanted or stolen vehicles and wanted persons and
to further other legitimate law enforcement purposes. Use of ALPR systems
and access to active data are restricted to legitimate law enforcement purposes.

(B) Active ALPR data may be accessed by a law enforcement officer
operating the ALPR system only if he or she has a legitimate law enforcement
purpose for the data. Entry of any data into the system other than data
collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(C)(i) Requests to review active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency’s Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to VTIAC and retained by VTIAC for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2)(A) A VTIAC analyst shall transmit historical data only to a Vermont or out-of-state law enforcement officer who has a legitimate law enforcement purpose for the data. A law enforcement officer to whom historical data are transmitted may use such data only for a legitimate law enforcement purpose. Entry of any data onto the statewide ALPR server other than data collected by an ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Requests for historical data, whether from Vermont or out-of-state law enforcement officers, shall be made in writing to an analyst at
VTIAC. The request shall include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency’s ORI number. The request shall describe the legitimate law enforcement purpose. VTIAC shall retain all requests and shall record in writing the outcome of the request and any information that was provided to the requester or, if applicable, why a request was denied or not fulfilled. VTIAC shall retain the information described in this subdivision (c)(2)(B) for no fewer than three years.

(d) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.

(2) Except as provided in section 1608 of this title, information gathered through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or backups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under Section 1608 of this title or pursuant to a
warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

(e) Oversight; rulemaking.

(1) The Department of Public Safety shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) The total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database.

(B) The total number of ALPR readings each agency submitted to the statewide ALPR database.

(C) The 18-month cumulative number of ALPR readings being housed on the statewide ALPR database.

(D) The total number of requests made to VTIAC for ALPR data.

(E) The total number of requests that resulted in release of information from the statewide ALPR database.

(F) The total number of out-of-state requests.

(G) The total number of out-of-state requests that resulted in release of information from the statewide ALPR database.
(2) The Department of Public Safety may adopt rules to implement this section.

Sec. 2. 23 V.S.A. § 1608 is added to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A law enforcement agency or the Department of Motor Vehicles may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the agency or Department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation or to a pending court or Judicial Bureau proceeding. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.
(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied or 14 days after the denial, whichever is later.

Sec. 3. EFFECTIVE DATE AND SUNSET

(a) This act shall take effect on July 1, 2013.

(b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, 2015.

Date the Governor signed the bill: June 4, 2013
Ohio Legislative Service Commission

Bill Analysis

Jeff Grim

Am. Sub. S.B. 150
130th General Assembly
(As Reported by H. Finance and Appropriations)

Sens. Hite and Peterson, Coley, Eklund, Hughes, Kearney, Lehner, Manning, Sawyer, Turner, Uecker

Reps. Cera, C. Hagan, Barborak, Buchy, Damschroder, Landis, O'Brien, Patterson, Ruhl, Scherer, Rosenberger, Hayes, McClain, Antonio

BILL SUMMARY

Operation and management plans addressing agricultural pollution

- Revises the requirement that the Chief of the Division of Soil and Water Resources adopt rules establishing standards, and specifying pollution abatement practices eligible for state cost sharing, to abate soil erosion or degradation of state waters from farming by specifying that the standards and practices are to abate in part the degradation of state waters by residual farm products, manure, or soil sediment rather than by animal waste or soil sediment.

- Applies the provisions in existing law and the bill governing operation and management plans to operators of animal feeding operations (AFOs), rather than operators of concentrated animal feeding operations as in current law, and retains the application of those provisions to operators of agricultural land.

- Also applies other provisions in the Soil and Water Resources and Soil and Water Conservation Commission Laws to AFOs, including a requirement that the Chief adopt rules establishing procedures for the administration of grants to the owners or operators of agricultural land or AFOs for the implementation of those plans.

- Replaces the term "animal waste" with "residual farm products" and "manure" in the above Laws, generally applies the existing definition of "animal waste" to "residual farm products," and defines "manure" to mean animal excreta.

- For purposes of the above Laws, defines "animal feeding operation" to mean the production area of an agricultural operation where agricultural animals are kept and
raised in confined areas other than a facility that possesses a specified type of permit.

- Generally prohibits specified state and local government officials, including the Director of Natural Resources, from disclosing certain information provided by or regarding a person who operates under an operation and management plan.

**Voluntary nutrient management plans**

- Authorizes a person who operates agricultural land to develop a voluntary nutrient management plan or have it developed by another person or the supervisors of the applicable soil and water conservation district on the person's behalf.

- Generally defines "voluntary nutrient management plan" to mean any of the following:
  
  -- A nutrient management plan that is in the form of the Ohio Nutrient Management Workbook made available by the Ohio State University;

  -- A comprehensive nutrient management plan developed by the Natural Resources Conservation Service in the U.S. Department of Agriculture or persons authorized by the Conservation Service to develop a plan; or

  -- A document that is equivalent to either of the above documents and that contains specified information, including identification of all nutrients applied.

- Establishes requirements and procedures for the approval of certain voluntary nutrient management plans by the Director of Agriculture, the Director's designee, or the supervisors of the applicable soil and water conservation district.

- Generally prohibits specified state and local government officials, including the Director of Agriculture, from disclosing information used in the development or approval of or contained in a voluntary nutrient management plan.

**Application of fertilizer for agricultural production**

- Prohibits a person, beginning September 30 of the third year after the bill's effective date, from applying fertilizer for the purposes of agricultural production unless that person has been certified to do so by the Director of Agriculture or is acting under the instructions and control of a person who is certified.

- Requires persons certified to apply fertilizer for purposes of agricultural production to comply with procedures and requirements established in rules.
• Requires the Director to adopt rules creating a fertilizer applicator certification program and rules establishing all of the following concerning the required certifications:

  --The amount of the required application fee, provided that the amount must not exceed the cost of a private pesticide applicator license as established in rule;

  --Information that must be included with an application for certification;

  --Procedures for the issuance, renewal, and denial of certification and grounds for denial;

  --Requirements and procedures governing training that must be successfully completed in order for a person to be certified; and

  --Requirements concerning the maintenance of records.

• Exempts a person who has been licensed as a commercial applicator or private applicator under the Pesticide Law from paying the application fee for fertilizer certification.

• Allows the Director, until rules regarding fertilizer applicator certification are adopted, to authorize applicants for commercial and private pesticide applicator licenses to obtain additional training and temporary certification in fertilizer application simultaneously with pesticide application training at no additional cost.

• Authorizes the Director to adopt rules that establish criteria in accordance with which a person may be exempt from any required training, specify any type of cultivation that is to be excluded as agricultural production for purposes of the Agricultural Additives, Lime, and Fertilizer Law, and define what constitutes "under the instructions and control" for purposes of fertilizer certification.

• States that it is an affirmative defense in a private civil action for claims involving or resulting from the application of fertilizer if certain conditions are met.

Additional fertilizer law changes

• Revises the levying of the fee paid by an applicant for a license to manufacture or distribute fertilizer by:

  --Requiring a fee for each location outside of Ohio from which fertilizer is distributed into Ohio rather than for each location outside of Ohio from which fertilizer is distributed in Ohio to nonlicensees; and
--Adding that the fee applies for each Ohio location from which fertilizer is distributed in Ohio.

- Precludes a fertilizer distributor from being required to obtain a distribution license if the fertilizer is registered with the Director under the fertilizer provisions of the Agricultural Additives, Lime, and Fertilizer Law.

- Makes several changes to the provisions governing the tonnage report submitted to the Director by a fertilizer licensee or registrant and the payment of a 25¢ per-ton inspection fee on fertilizer that is distributed or applied.

- Adds certificates to apply fertilizer for agricultural production to the existing enforcement provisions governing the revocation, suspension, and refusal of fertilizer licenses or registration.

- Eliminates the requirement that the Director must have substantial evidence of a violation before proceeding to revoke, suspend, or refuse fertilizer manufacturing licenses, distribution licenses, or registrations.

- Authorizes the Director to deny, suspend, revoke, refuse to renew, or modify a fertilizer applicator certificate prior to a hearing if the Director has substantial reason to believe that the certificate holder has recklessly applied fertilizer causing a health emergency, but requires the Director to afford an opportunity for a hearing after such an action.

- Specifies that the Director is not required to take certain actions related to the enforcement of the fertilizer provisions of that Law or rules adopted under those provisions when the Director believes that the public interest will be best served by a written warning.

- Makes changes in the criminal penalties for violations of the Agricultural Additives, Lime, and Fertilizer Law, including applying those penalties to any violation of that Law or rules adopted under it rather than to a violation of specified provisions of that Law as in current law.

- Exempts persons who fail to comply with rules governing maintenance of fertilizer applicator certification records from civil and criminal penalties.

- For purposes of the Agricultural Additives, Lime, and Fertilizer Law, defines "agricultural production" to mean the cultivation, primarily for sale, of plants or any parts of plants on more than 50 acres, excluding the use of start-up fertilizer applied through a planter.
• Revises the list of materials that are not considered fertilizer for purposes of that Law, including adding residual farm products to that list.

Miscellaneous

• Revises the membership of the Ohio Soil and Water Conservation Commission by doing all of the following:

  --Expanding the number of members appointed by the Governor from four to six and removing the Director of Agriculture and the Vice-President for Agricultural Administration of the Ohio State University (OSU) as voting members;

  --Authorizing the Directors of Agriculture, Environmental Protection, and Natural Resources, the OSU Vice-President for Agricultural Administration, and an officer of the Ohio Federation of Soil and Water Conservation Districts or their designees to serve as ex officio members; and

  --Removing the requirement that two of the appointed members be farmers, instead requiring that four of the appointed members be persons who have a knowledge of or interest in agricultural production as well as the natural resources of the state as in current law, and requiring one member to represent rural interests and one to represent urban interests.

• Replaces "animal waste" with "residual farm products" and "manure" in specified existing exemptions from the Water Pollution Control Law.

• Requires money in the Conservation Reserve Management Program that is not retained by soil and water conservation districts for certain activities related to nutrient reduction in Lake Erie to be deposited in the Healthy Lake Erie Fund created by the bill and used for activities related to open lake disposal of dredge material in the Lake.

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Overview

The bill revises and expands the application of requirements governing operation and management plans for the management and abatement of the degradation of the waters of the state by animal waste and other pollutants from agricultural operations. The requirements are generally administered and enforced by the Department of Natural Resources and soil and water conservation districts established under the Soil and Water Conservation Commission Law.

The bill also authorizes a person who operates agricultural land to develop, or have developed on the person’s behalf, a voluntary nutrient management plan that monitors certain conditions of and identifies nutrients applied on the agricultural land. It establishes requirements and procedures for the approval of those plans by the Director of Agriculture, the Director’s designee, or the supervisors of applicable soil and water conservation districts.

In addition, the bill revises provisions and establishes new requirements governing the application of fertilizers. Under the bill, a person that applies fertilizer for the purposes of agricultural production must be certified to do so by the Director of Agriculture.

Operation and management plans addressing agricultural pollution

Background

Under existing law, the Chief of the Division of Soil and Water Resources, subject to the approval of the Ohio Soil and Water Conservation Commission, must adopt rules that establish both of the following:
(1) Technically feasible and economically reasonable standards to achieve a level of management and conservation practices in farming or silvicultural operations that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by animal waste or by soil sediment, including substances attached to the sediment (hereafter rules establishing abatement standards); and

(2) Criteria for determination of the acceptability of such management and conservation practices. The Chief may apply to the court of common pleas in the county where a violation of those standards causes pollution of the waters of the state for an order to compel the violator to cease the violation and to remove the agricultural pollutant or to comply with the standards, as appropriate.

A person that owns or operates agricultural land or a concentrated animal feeding operation (CAFO) may develop and operate under an operation and management plan that is approved by the Chief or the supervisors of the soil and water conservation district (hereafter supervisors of a conservation district). Such a person that has not developed a plan and has caused agricultural pollution by failure to comply with the standards established in rules may be ordered by the Chief to operate under an operation and management plan developed by the Chief or the supervisors of a conservation district.¹

Under law retained by the bill, waters of the state (hereafter water) are all streams, lakes, ponds, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within, or border on, Ohio or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.²

**Adoption of agricultural pollution standards and practices**

The bill revises the provision that requires the Chief to adopt rules establishing abatement standards and specifying pollution abatement practices that are eligible for state cost sharing by stating that the standards and practices, in addition to the abatement of wind or water erosion of the soil, are to abate the degradation of water by residual farm products (see below), manure, or soil sediment, including attached

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¹ R.C. 1511.02(E)(1), (G), and (N), 1511.07(A)(3), and 1515.08(O) and (P).

² R.C. 1511.01(E).
substances, rather than by animal waste or soil sediment, including attached substances, as in current law.³

**Application of plans to animal feeding operations**

The bill applies the provisions in existing law and the bill governing operation and management plans to operators of animal feeding operation (AFOs) (see below), rather than operators of CAFOs as in current law, and retains the application of those provisions to operators of agricultural land. Current law does not define CAFO for the purposes of the Division of Soil and Water Resources Law. Thus, the effect of applying the provisions to AFOs rather than CAFOs is unclear.

The bill also applies other provisions in the Soil and Water Resources and Soil and Water Conservation Commission Laws to AFOs. One provision now requires the Chief to adopt rules establishing procedures for the administration of grants to the owners or operators of agricultural land or AFOs for the implementation of operation and management plans. Another provision is revised to state that the statutory duties and authority of the Chief, including those discussed above, do not apply to manure that is defecated on land outside an AFO or runoff from that land into water. The final revised provision states that, in a private civil action for nuisances involving agricultural pollution, it is an affirmative defense if the person owning, operating, or otherwise responsible for agricultural land or an AFO is operating under and in substantial compliance with an operation and management plan.⁴

**Relevant terms**

The bill revises several existing definitions and establishes additional definitions with regard to the provisions governing operation and management plans. Under the bill, "agricultural pollution" means failure to use management or conservation practices in farming or silvicultural operations to abate wind or water erosion of the soil or to abate the degradation of water by residual farm products, manure, or soil sediment, including attached substances. Existing law instead refers to the degradation of water by animal waste or soil sediment, including attached substances.⁵

Consequently, the bill eliminates the term "animal waste" and replaces it with "residual farm products" and "manure." "Residual farm products" is defined to mean bedding, wash waters, waste feed, and silage drainage. The bill defines "manure" to

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³ R.C. 1511.02(E)(1).
⁴ R.C. 1511.02(E)(6) and (N) and 1511.021(C).
⁵ R.C. 1511.01(D).
mean animal excreta. Under current law, "animal waste" means animal excreta, discarded products, bedding, wash waters, waste feed, and silage drainage. "Residual farm products" as defined by the bill and "animal waste" as defined in current law also include the compost products resulting from the composting of dead animals in operations subject to existing law governing the composting of dead animals when either of the following applies:

(1) The composting is conducted by the person who raises the animals and the compost product is used in agricultural operations owned or operated by that person regardless of whether the person owns the animals; or

(2) The composting is conducted by the person who owns the animals, but does not raise them and the compost product is used in agricultural operations either by a person who raises the animals or by a person who raises grain that is used to feed them and that is supplied by the owner of the animals.6

The bill revises the definition of "pollution abatement practice." Under the bill, it means any erosion control, residual farm products, or manure pollution abatement facility, structure, or procedure and the operation and management associated with it as contained in operation and management plans developed or approved by the Chief or by supervisors of conservation districts.7 Current law instead refers to animal waste rather than residual farm products or manure.

Finally, the bill defines "animal feeding operation" to mean the production area, as defined in the Concentrated Animal Feeding Facilities Law, of an agricultural operation where agricultural animals are kept and raised in confined areas and specifies that it does not include a facility that possesses a permit issued under that Law or the Water Pollution Control Law.8

Disclosure of information

Under the bill, except as discussed below, the Director of Natural Resources, an employee of the Department of Natural Resources, the supervisors and employees of a conservation district, and a contractor of the Department or a conservation district must not disclose either of the following:

6 R.C. 1511.01(G).
7 R.C. 1511.01(C).
8 R.C. 1511.01(J).
(1) Information, including data from geographic information systems and global positioning systems, provided by a person who owns or operates agricultural land or an AFO and operates under an operation and management plan; or

(2) Information gathered as a result of an inspection of agricultural land or an AFO to determine whether the person who owns or operates the land or operation is in compliance with an operation and management plan.\(^9\)

However, the Director or the supervisors of a conservation district may release or disclose the information specified above to a person or a federal, state, or local agency working in cooperation with the Chief or the supervisors in the development of an operation and management plan or an inspection to determine compliance with such a plan if the Director or supervisors determine that the person or agency will not subsequently disclose the information to another person.\(^\text{10}\)

**Voluntary nutrient management plans**

The bill provides for the development of voluntary nutrient management plans by or for persons who operate agricultural land. A voluntary nutrient management plan is any of the following:

(1) A nutrient management plan that is in the form of the Ohio Nutrient Management Workbook made available by the Ohio State University;

(2) A comprehensive nutrient management plan developed by the Natural Resources Conservation Service in the U.S. Department of Agriculture, a technical service provider certified by the Conservation Service, or a person authorized by the Conservation Service to develop a plan; or

(3) A document that is equivalent to a plan specified in item (1) or (2) above, that is in a form approved by the Director of Agriculture or the Director's designee, and that contains at least all of the following information:

---Results of soil tests conducted on land subject to the plan that comply with the field office technical guide established by the Conservation Service and adopted by the Chief of the Division of Soil and Water Resources in applicable rules adopted by the Chief, including rules establishing wind and water erosion abatement standards and composting of dead animals plans, and that are not older than three years;

\(^9\) R.C. 1511.023(A).

\(^\text{10}\) R.C. 1511.023(B).
--Documentation of the method and seasonal time of utilization and application of nutrients;

--Identification of all nutrients applied, including manure, fertilizer, sewage sludge, and biodigester residue; and

--Field information regarding land subject to the plan, including the location, spreadable acreage, crops grown, and actual and projected yields.¹¹

**Development and approval**

Under the bill, a person who owns or operates agricultural land may do any of the following:

1. Develop a voluntary nutrient management plan;
2. Request any person to develop a voluntary nutrient management plan on behalf of the person who owns or operates the agricultural land; or
3. Request the supervisors of a conservation district to develop a voluntary nutrient management plan on the person's behalf.¹²

A person who owns or operates agricultural land and who has developed or has had developed a voluntary nutrient management plan without the assistance of the supervisors of the applicable conservation district may request those supervisors, the Director, or the Director's designee to approve the plan. The supervisors, Director, or Director's designee must approve or disapprove the plan.¹³

If a voluntary nutrient management plan is disapproved, the person who developed the plan or had it developed may request an adjudication hearing in accordance with the Administrative Procedure Act. A person whose plan is disapproved may appeal to the Franklin County Court of Common Pleas.¹⁴

After a voluntary nutrient management plan has been approved, the person who developed the plan or had it developed must submit the plan once every five years to the supervisors of the applicable conservation district or the Director for review. If after the review the supervisors or the Director determines that the plan needs to be

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¹¹ R.C. 905.31(DD) and 1515.01(O).
¹² R.C. 905.323(A)(1) and 1515.08(S).
¹³ R.C. 905.323(A)(2) and 1515.08(S).
¹⁴ R.C. 905.323(B) and (C).
modified, the supervisors or Director must notify the person who submitted the plan. The person then must provide for the modification of the plan. The procedures and requirements established in the bill for the development of a plan apply to a modification of the plan.15

**Disclosure of information in plans**

The bill generally prohibits the Director, an employee of the Department of Agriculture, the supervisors of a conservation district, an employee of a district, and a contractor of the Department or a district from disclosing information, including data from geographic information systems and global positioning systems, used in the development or approval of or contained in a voluntary nutrient management plan. However, the Director or the supervisors of a conservation district may release or disclose such information to a person or a federal, state, or local agency working in cooperation with the Director or the supervisors in the development or approval of a plan if the Director or supervisors determine that the person or federal, state, or local agency will not subsequently disclose the information to another person who is not authorized by the person who owns or operates agricultural land to receive the information. The Director or the supervisors of a district may release or disclose information regarding a plan to the extent required by the federal Water Pollution Control Act.16

**Application of fertilizer for agricultural production**

**Certification**

The bill prohibits a person, beginning September 30 of the third year after the bill's effective date, from applying fertilizer for the purposes of agricultural production unless that person has been certified to do so by the Director of Agriculture or is acting under the instructions and control of a person who is so certified (see below).17 The Director may adopt rules defining "under the instructions and control" for that purpose.18

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15 R.C. 905.323(D).
16 R.C. 905.324.
17 R.C. 905.321(A).
18 R.C. 905.322(B)(3).
A person must be certified to apply fertilizer for purposes of agricultural production in accordance with the Director’s rules. A person that has been so certified must comply with requirements and procedures established in those rules.  

Under the bill, the Director must adopt rules that create a fertilizer applicator certification program that does all of the following:

(1) Educates an applicant for certification on the time, place, form, amount, handling, and application of fertilizer;

(2) Serves as a component of a comprehensive state nutrient reduction strategy addressing all sources of relevant nutrients; and

(3) Supports generally practical and economically feasible best management practices.

Under the bill, the Director also must adopt rules that establish all of the following concerning the required certifications:

(1) The amount of the fee that must be submitted with an application for certification, if applicable, provided that the fee cannot exceed the fee established in rules for a private pesticide applicator license;

(2) Information that must be included with an application for certification;

(3) Procedures for the issuance, renewal, and denial of certifications;

(4) Grounds for the denial of certifications;

(5) Requirements and procedures governing training that must be successfully completed in order for a person to be certified; and

(6) Requirements for the maintenance of records by a person that is certified. The requirements established in the rules must include the date, place, and rate of application of fertilizer, an analysis of the fertilizer, and the name of the person applying the fertilizer. The rules must stipulate that the records must be maintained for not more than three years from the date of the fertilizer application and cannot be

19 R.C. 905.321(B).

20 R.C. 905.322(A)(1).
required to be submitted to the Director or the Director's designee, but must be made available for review upon request.\textsuperscript{21}

The bill exempts from the certification application fee a person that has been licensed as a commercial pesticide applicator or as a private pesticide applicator under the Pesticides Law and that is applying to be certified under the bill.\textsuperscript{22} The bill allows the Director, until rules regarding fertilizer applicator certification are adopted, to authorize applicants for commercial and private pesticide applicator licenses to obtain additional training and temporary certification in fertilizer application simultaneously with pesticide application training at no additional cost.\textsuperscript{23}

In addition to all of the rules discussed above, the Director may adopt rules that establish criteria in accordance with which a person may be exempt from any training that is required in order to become certified.\textsuperscript{24} The Director must adopt all rules required or authorized by the bill in accordance with the Administrative Procedure Act.

**Affirmative defense**

Under the bill, in a private civil action for claims involving or resulting from the application of fertilizer, it is an affirmative defense if all of the following apply:

(1) The person applying the fertilizer is certified or is applying fertilizer under the instruction and control of a person who is certified under the bill and rules adopted by the Director under it;

(2) Records have been properly maintained for the application of fertilizer as required by rules adopted by the Director under the bill; and

(3) The fertilizer has been applied according to and in substantial compliance with a voluntary nutrient management plan developed under the bill, provided that the plan has been approved by the supervisors of the applicable conservation district, the Director, or the Director's designee or developed by the supervisors of the applicable conservation district under the bill (see above).\textsuperscript{25}

\begin{itemize}
  \item \textsuperscript{21} R.C. 905.322(A)(2).
  \item \textsuperscript{22} R.C. 905.321(C).
  \item \textsuperscript{23} Section 4.
  \item \textsuperscript{24} R.C. 905.322(B)(1).
  \item \textsuperscript{25} R.C. 905.325.
\end{itemize}
Additional fertilizer law changes

Background

Under the law governing fertilizer, a person that wants to manufacture or distribute fertilizer in Ohio must obtain a license to do so from the Department of Agriculture. In addition, a fertilizer manufacturer or distributor that wants to distribute certain fertilizer must register that fertilizer with the Department. Generally, a licensee or registrant must pay to the Director an inspection fee for all fertilizers distributed in Ohio and annually file with the Director a tonnage report that includes the amount of fertilizer distributed to nonlicensees or nonregistrants in Ohio.

Manufacturing and distribution license fee

The bill revises the levying of the $5 license fee that must be paid by a person that applies for a license to manufacture or distribute fertilizer by doing both of the following:

(1) Requiring a fee for each location outside of Ohio from which fertilizer is distributed into Ohio rather than for each location outside of Ohio from which fertilizer is distributed in Ohio to nonlicensees; and

(2) Adding that the fee applies for each Ohio location from which fertilizer is distributed in Ohio.

Under the bill, a fertilizer distributor cannot be required to obtain a fertilizer distribution license if the fertilizer is registered with the Director under the fertilizer provisions of the Agricultural Additives, Lime, and Fertilizer Law. Current law instead precludes a distributor from being required to obtain a license if the manufacturer is licensed under that Law or if the manufacturer or distributor is registered under it.

Tonnage report

The bill makes several changes to the provisions governing the tonnage report submitted to the Director by a fertilizer manufacturing licensee, fertilizer distribution licensee, and fertilizer registrant. The bill requires a licensee or registrant to pay the Director an inspection fee of 25¢ per ton for all of the following, as applicable:

(1) All fertilizer that the licensee distributes in Ohio to a person that has not been issued a fertilizer manufacturing or distribution license;

26 R.C. 905.32(A)(3) and (4).

27 R.C. 905.34.
(2) All fertilizer that the licensee applies in Ohio for purposes of agricultural production and all fertilizer applied in Ohio on behalf of the licensee by an employee or contractor who is certified to do so; and

(3) All fertilizer that the registrant distributes in Ohio.

However, the inspection fee does not apply to packaged fertilizers that are in containers of ten pounds or less.\textsuperscript{28}

Current law instead requires a licensee or registrant, except registrants who package specialty fertilizers only in containers of ten pounds or less, to pay the Director for all fertilizers distributed in Ohio an inspection fee at the rate of 25¢ per ton or 28¢ per metric ton. Licensees and registrants must specify on an invoice whether the per-ton inspection fee has been paid or whether payment of the fee is the responsibility of the purchaser of the fertilizer. The payment of the inspection fee by a licensee or registrant exempts all other persons from the payment of the fee.\textsuperscript{29}

The bill requires every licensee or registrant to file with the Director an annual report in accordance with rules adopted by the Director (see below). Under existing law, the report instead must include the number of net tons or metric tons of fertilizer distributed to nonlicensees or nonregistrants in Ohio by grade; packaged; and bulk, dry, or liquid.\textsuperscript{30}

Under the bill, the report must be filed on or before the date specified in rules. Current law instead requires the report to be filed on or before November 30 of each calendar year and to include data from the period beginning on November 1 of the year preceding the year in which the report is due through October 31 of the year in which it is due.\textsuperscript{31}

Finally, the bill requires the Director to adopt rules that establish requirements and procedures with which a licensee or registrant must comply when filing an annual tonnage report, including the date on which the report must be filed.\textsuperscript{32}

\textsuperscript{28} R.C. 905.36(A).

\textsuperscript{29} R.C. 905.36(A) and 905.31(Z).

\textsuperscript{30} R.C. 905.36(B) and 905.31(Z).

\textsuperscript{31} R.C. 905.36(B).

\textsuperscript{32} R.C. 905.322(A)(3).
Enforcement

The bill adds certificates to apply fertilizer for agricultural production to the existing enforcement provisions governing the revocation, suspension, and refusal of fertilizer manufacturing licenses, distribution licenses, and registrations. It eliminates the requirement that the Director must have substantial evidence of a violation before proceeding to take such an action. In addition, it reorganizes the provisions.33

The bill then authorizes the Director to deny, suspend, revoke, refuse to renew, or modify a fertilizer applicator certificate prior to a hearing if the Director has substantial reason to believe that the certificate holder has recklessly applied fertilizer in a manner that causes an emergency to exist that presents a clear and present danger to human or animal health. The Director must provide an opportunity for a hearing without delay after taking such an action.34

Under the bill, whenever the Director has cause to believe that a person has violated, or is violating, the fertilizer provisions of the Agricultural Additives, Lime, and Fertilizer Law or rules adopted or an order issued under those provisions or rules, the Director may conduct a hearing in accordance with the Administrative Procedure Act to determine whether a violation has occurred. If the Director determines that a violation has occurred, the Director may require the violator to pay a civil penalty in accordance with the schedule of civil penalties established in rules. Each day of violation constitutes a separate violation. However, persons who fail to comply with rules adopted by the Director governing the maintenance of fertilizer applicator certification records are exempt from those provisions.35

The bill states that nothing in the fertilizer provisions of the Agricultural Additives, Lime, and Fertilizer Law or rules adopted by the Director under those provisions can be construed to require the Director to report any findings to the appropriate prosecuting authority for proceedings in the prosecution of, or issue any order or institute any enforcement procedure for, a violation of those provisions or rules when the Director believes that the public interest will be best served by a suitable written notice of warning. A person who receives a written notice of warning may respond in writing to the notice.36

33 R.C. 905.45(A).
34 R.C. 905.45(B).
35 R.C. 905.501.
36 R.C. 905.502.
The bill also makes the following changes in the criminal penalties for violations of the Agricultural Additives, Lime, and Fertilizer Law:

(1) Applies the penalties to any violation of that Law or rules adopted under it rather than to a violation of specified provisions of that Law as in current law;

(2) Decreases the penalty for a first offense from a second degree misdemeanor to a third degree misdemeanor; and

(3) Revises the penalties for subsequent violations by:

--Decreasing the penalty for a second offense from a first degree misdemeanor to a second degree misdemeanor; and

--Specifying that the penalty for a third or subsequent offense is a first degree misdemeanor.

The bill exempts persons who fail to comply with rules governing maintenance of fertilizer applicator certification records from the above criminal penalties.37

**Terms**

For purposes of the Agricultural Additives, Lime, and Fertilizer Law, the bill defines "agricultural production" as the cultivation, primarily for sale, of plants or any parts of plants on more than 50 acres. It does not include the use of start-up fertilizer applied through a planter.38 The Director may specify any type of cultivation that is to be excluded from the term in rules adopted under the bill.39

The bill also revises the list of materials that are not considered fertilizer for purposes of that Law as follows:

(1) Adds residual farm products to the list of exceptions;

(2) States that animal and vegetable manures, rather than unmanipulated animal and vegetable manures, are not fertilizer; and

37 R.C. 905.99.
38 R.C. 905.31(Z).
39 R.C. 905.321(B)(2).
(3) Adds that all of the materials on the list of exceptions are considered fertilizer if they are distributed with a guaranteed analysis. Under existing law, guaranteed analysis is the minimum percentages of plant nutrients claimed in a specified order.

**Miscellaneous**

**Ohio Soil and Water Conservation Commission**

The bill revises the membership of the Ohio Soil and Water Conservation Commission by doing all of the following:

(1) Expanding the number of members of the Commission appointed by the Governor from four to six, and removing the Director of Agriculture and the Vice-President for Agricultural Administration of the Ohio State University (OSU) as voting members;

(2) Authorizing the Directors of Agriculture, Environmental Protection, and Natural Resources, the OSU Vice-President for Agricultural Administration, and an officer of the Ohio Federation of Soil and Water Conservation Districts or their designees to serve as ex officio members; and

(3) Removing the requirement that two of the appointed members be farmers, instead requiring that four of the appointed members be persons who have a knowledge of or interest in agricultural production as well as the natural resources of the state as in current law, and requiring one member to represent rural interests and one to represent urban interests.

The bill also eliminates the authority of the Commission to utilize the services of staff members in OSU’s College of Agriculture as may be agreed upon by the Commission and the College.

**Water Pollution Control Law**

The bill replaces the term "animal waste" with "residual farm products" and "manure," as discussed above, in specified existing exemptions from the Water Pollution Control Law. The exemptions include:

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40 R.C. 905.31(D) and (F).
41 R.C. 1515.02 and Section 3.
42 R.C. 1515.02.
(1) The exemption of specified types of disposal systems and related management and conservation practices that are subject to rules adopted by the Chief of the Division of Soil and Water Resources from the statute specifying the authority of the Director of Environmental Protection under that Law, including the authority to issue certain permits;

(2) The exemption of pollution that is caused, in part, by those substances resulting from farming, silvicultural, or earthmoving activities regulated by specified law governing counties or the Division of Soil and Water Resources Law from the statute generally prohibiting pollution of the waters of the state and discharging pollutants without a permit; and

(3) The exemption of specified types of treatment or disposal systems and related management and conservation practices that are subject to rules adopted by the Chief from the statutes requiring approval of plans for sewerage treatment works.43

Open lake disposal of dredge material in Lake Erie

The bill requires the Director of Natural Resources to identify unexpended funds previously appropriated to soil and water conservation districts that are related to the Conservation Reserve Enhancement Program. The Director must determine the amount of the funds necessary for programs, practices, and other activities, other than permitting, related to nutrient reduction in Lake Erie, including nutrients associated with open lake disposal of dredge material. The districts must retain the identified amounts for those purposes. On the bill’s effective date, districts must remit to the Director any amounts that are not so retained. Upon receipt, the Director must deposit the funds into the Healthy Lake Erie Fund created in the state treasury by the bill. The bill requires the funds to be used by the Director for activities related to open lake disposal of dredge material in the Lake.44

Technical and conforming changes

The bill makes technical and conforming changes, including renumbering a Revised Code section.45

43 R.C. 6111.03, 6111.04(F)(3), and 6111.44(B)(3).

44 Section 5.

45 R.C. 903.25; 905.31(A) and (T); 905.36(B) and (C); 905.39; 905.41(A) and (B); 905.46; 905.47; 905.48; 905.49; 905.50; 905.503; 907.111(D); 1511.02(A), (D), (G), (H), and (I)(2); 1511.021(C); 1515.08(O); and 3717.53(A)(2).
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AN ACT relating to the security of personal information.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

⇒ SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context otherwise requires:

(a) "Breach of the security of the system" means unauthorized acquisition of unencrypted and unredacted computerized data that compromises the security, confidentiality, or integrity of personally identifiable information maintained by the information holder as part of a database regarding multiple individuals that actually causes, or leads the information holder to reasonably believe has caused or will cause, identity theft or fraud against any resident of the Commonwealth of Kentucky. Good faith acquisition of personally identifiable information by an employee or agent of the information holder for the purposes of the information holder is not a breach of the security of the system if the personally identifiable information is not used or subject to further unauthorized disclosure;

(b) "Information holder" means any person or business entity that conducts business in this state; and

(c) "Personally identifiable information" means an individual's first name or first initial and last name in combination with any one (1) or more of the following data elements, when the name or data element is not redacted:

1. Social Security number;
2. Driver's license number; or
3. Account number, credit or debit card number, in combination with any required security code, access code, or password permit access to an individual's financial account.

(2) Any information holder shall disclose any breach of the security of the system.
following discovery or notification of the breach in the security of the data, to any resident of Kentucky whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (4) of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(3) Any information holder that maintains computerized data that includes personally identifiable information that the information holder does not own shall notify the owner or licensee of the information of any breach of the security of the data as soon as reasonably practicable following discovery, if the personally identifiable information was, or is reasonably believed to have been, acquired by an unauthorized person.

(4) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made promptly after the law enforcement agency determines that it will not compromise the investigation.

(5) For purposes of this section, notice may be provided by one (1) of the following methods:

(a) Written notice;

(b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. sec. 7001;

or

(c) Substitute notice, if the information holder demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars ($250,000), or that the affected class of subject persons to be notified exceeds five hundred thousand (500,000), or the information holder does
not have sufficient contact information. Substitute notice shall consist of all of the following:

1. E-mail notice, when the information holder has an e-mail address for the subject persons;

2. Conspicuous posting of the notice on the information holder's Internet Web site page, if the information holder maintains a Web site page; and

3. Notification to major statewide media.

(6) Notwithstanding subsection (5) of this section, an information holder that maintains its own notification procedures as part of an information security policy for the treatment of personally identifiable information, and is otherwise consistent with the timing requirements of this section, shall be deemed to be in compliance with the notification requirements of this section, if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(7) If a person discovers circumstances requiring notification pursuant to this section of more than one thousand (1,000) persons at one (1) time, the person shall also notify, without unreasonable delay, all consumer reporting agencies and credit bureaus that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. sec. 1681a, of the timing, distribution, and content of the notices.

(8) The provisions of this section and the requirements for nonaffiliated third parties in KRS Chapter 61 shall not apply to any person who is subject to the provisions of Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102, as amended, or the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended, or any agency of the Commonwealth of Kentucky or any of its local governments or political subdivisions.
SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Cloud computing service" means a service that provides, and that is marketed and designed to provide, an educational institution with account-based access to online computing resources;

(b) "Cloud computing service provider" means any person other than an educational institution that operates a cloud computing service;

(c) "Educational institution" means any public, private, or school administrative unit serving students in kindergarten to grade twelve (12);

(d) "Person" means an individual, partnership, corporation, association, company, or any other legal entity;

(e) "Process" means to use, access, collect, manipulate, scan, modify, analyze, transform, disclose, store, transmit, aggregate, or dispose of student data;

(f) "Student data" means any information or material, in any medium or format, that concerns a student and is created or provided by the student in the course of the student's use of cloud computing services, or by an agent or employee of the educational institution in connection with the cloud computing services. Student data includes the student's name, email address, email messages, postal address, phone number, and any documents, photos, or unique identifiers relating to the student.

(2) A cloud computing service provider shall not process student data for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the provider receives express permission from the student's parent. However, a cloud computing service provider may assist an educational institution to conduct educational research as permitted by the Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C.
sec. 1232g. A cloud computing service provider shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purpose, and shall not sell, disclose, or otherwise process student data for any commercial purpose.

(3) A cloud computing service provider that enters into an agreement to provide cloud computing services to an educational institution shall certify in writing to the educational institution that it will comply with subsection (2) of this section.

(4) The Kentucky Board of Education may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to carry out the requirements of this section.
AN ACT concerning

Commercial Law – Security Freezes – Minors and Protected Persons

FOR the purpose of authorizing certain individuals representatives to request a security freeze on the consumer report or a certain record of certain protected consumers who are minor children and certain consumers who are or individuals under guardianship or conservatorship in accordance with certain application procedures; requiring a consumer reporting agency to place a security freeze on certain consumer reports of certain consumers on request of certain individuals and to send certain information to the individuals; authorizing a consumer reporting agency to require certain individuals to confirm a certain request in writing; requiring a consumer reporting agency to create a certain consumer report for a certain consumer under certain circumstances; requiring a consumer reporting agency to place a security freeze for a protected consumer under certain circumstances and within a certain period of time; requiring a consumer reporting agency to create a certain record under certain circumstances; prohibiting a consumer reporting agency from releasing certain information while a security freeze is in place without certain authorization; authorizing a person who requests access to a consumer report of a certain consumer to treat a certain application as incomplete under certain circumstances; providing for the temporary or permanent removal of a security freeze on a consumer report of a certain consumer in accordance with certain procedures; prohibiting the charging of a fee for imposition of a security freeze on the consumer report of a certain consumer under certain circumstances; requiring a certain notice to contain certain information; altering the application of certain provisions of law; defining a certain term; altering a certain definition; making certain stylistic and conforming changes; providing that a certain security freeze remains in effect until a certain request is made or the security freeze is removed in accordance with a certain provision of this Act; providing that a certain protected consumer or representative may request the removal of a certain security freeze by submitting a certain request in a certain manner and under certain circumstances; requiring a consumer reporting agency to remove a certain security freeze within a certain period of time; prohibiting a consumer reporting agency from charging a certain fee except under certain circumstances; allowing a consumer reporting agency to remove a certain security freeze or delete a certain record under certain circumstances; providing that the exclusive remedy for a certain violation shall be a certain complaint filed with the Commissioner of Financial Regulation; defining certain terms; repealing certain obsolete provisions; providing for a delayed effective date; and generally relating to consumer reports and security freezes.
BY repealing and reenacting, with amendments,
   Article – Commercial Law
   Section 14–1212.1
   Annotated Code of Maryland
   (2005 Replacement Volume and 2011 Supplement)

BY adding to
   Article – Commercial Law
   Section 14–1212.2
   Annotated Code of Maryland
   (2005 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

   Article – Commercial Law

14–1212.1.

(a) (1) In this section the following words have the meanings indicated.

(2) “Account review” includes activities related to account maintenance, account monitoring, credit line increases, and account upgrades and enhancements.

(3) “REPRESENTATIVE” MEANS:

(I) THE CUSTODIAL PARENT OR LEGAL GUARDIAN OF A CONSUMER WHO IS A MINOR; OR

(II) THE GUARDIAN OR CONSERVATOR OF A CONSUMER WHO IS AN INCAPACITATED PERSON OR A PROTECTED PERSON APPOINTED IN ACCORDANCE WITH TITLE 13 OF THE ESTATES AND TRUSTS ARTICLE.

(4) (3) “Security freeze” means a restriction placed on a consumer’s consumer report at the request of the consumer OR THE CONSUMER’S REPRESENTATIVE that prohibits a consumer reporting agency from releasing the consumer’s consumer report or any information derived from the consumer’s consumer report without the express authorization of the consumer OR THE CONSUMER’S REPRESENTATIVE.

(b) (1) This section does not apply to the use of a consumer’s consumer report by:
(i) A person, or a subsidiary, affiliate, agent, or assignee of the person, with which the consumer has, or prior to assignment had, an account, contract, or debtor-creditor relationship, for the purpose of account review or collecting the financial obligation owing for the account, contract, or debt;

(ii) A person that was given access to the consumer's consumer report under subsection (e) of this section for the purpose of facilitating an extension of credit to the consumer or another permissible use;

(iii) A person acting in accordance with a court order, warrant, or subpoena;

(iv) A unit of State or local government that administers a program for establishing and enforcing child support obligations;

(v) The Department of Health and Mental Hygiene in connection with a fraud investigation conducted by the Department;

(vi) The State Department of Assessments and Taxation, the Comptroller, or any other State or local taxing authority in connection with:

1. An investigation conducted by the Department, Comptroller, or taxing authority;

2. The collection of delinquent taxes or unpaid court orders by the Department, Comptroller, or taxing authority; or

3. The performance of any other duty provided for by law;

(vii) A person for the purpose of prescreening, as defined by the federal Fair Credit Reporting Act;

(viii) A person administering a credit file monitoring subscription service to which the consumer has subscribed;

(ix) A person providing a consumer OR A CONSUMER’S REPRESENTATIVE with a copy of the consumer’s consumer report on request of the consumer OR THE CONSUMER’S REPRESENTATIVE; or

(x) To the extent not prohibited by other State law, a person only for the purpose of setting or adjusting an insurance rate, adjusting an insurance claim, or underwriting an insurance risk.

(2) This section does not apply to:
(i) A check services or fraud prevention services company that issues:

1. Reports on incidents of fraud; or
2. Authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar payment methods;

(ii) A deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine abuse, or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution; or

(iii) A consumer reporting agency database or file that consists entirely of consumer information concerning, and used solely for:

1. Criminal record information;
2. Personal loss history information;
3. Fraud prevention or detection;
4. Employment screening; or
5. Tenant screening.

(c) (1) A consumer OR A CONSUMER’S REPRESENTATIVE may elect to place a security freeze on the consumer’s consumer report by:

(i) Written request sent by certified mail;

(ii) Beginning January 1, 2010, subject SUBJECT to paragraph (6) of this subsection, telephone, by providing certain personal information that the consumer reporting agency may require to verify the identity of the consumer OR THE CONSUMER’S REPRESENTATIVE;

(iii) Electronic mail using an electronic postmark if a secure electronic mail connection is made available by the consumer reporting agency; or

(iv) If the consumer reporting agency makes a secure connection available on its website, an electronic request through that secure connection.
(2) A consumer reporting agency shall require a consumer or a consumer’s representative to provide proper identifying information when requesting a security freeze.

(3) Except as provided in paragraph (5) of this subsection, a consumer reporting agency shall place a security freeze on a consumer’s consumer report:

(i) Before July 1, 2008, within 5 business days after receiving a request under paragraph (1) of this subsection; or

(ii) On or after July 1, 2008, within 3 business days after receiving a request under paragraph (1) of this subsection.

(4) Within 5 business days after placing a security freeze on a consumer’s consumer report, the consumer reporting agency shall:

(i) Send a written confirmation of the security freeze to the consumer or the consumer’s representative;

(ii) Provide the consumer or the consumer’s representative with a unique personal identification number or password to be used by the consumer or the consumer’s representative when authorizing the release of the consumer’s consumer report to a specific person or for a specific period of time; and

(iii) Provide the consumer or the consumer’s representative with a written statement of the procedures for requesting the consumer reporting agency to remove or temporarily lift a security freeze.

(5) (i) Subject to subparagraph (ii) of this paragraph, a consumer reporting agency is not required to place a security freeze on a consumer report if the consumer reporting agency:

1. Acts only as a reseller of credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies; and

2. Does not maintain a permanent database of credit information from which new consumer reports are produced.

(ii) A consumer reporting agency that acts as a reseller of credit information shall honor a security freeze placed on a consumer report by another consumer reporting agency.

(6) (i) If a consumer or a consumer’s representative requests placement of a security freeze by telephone under paragraph (1)(ii) of this
subsection, the consumer reporting agency may require the consumer **OR THE CONSUMER’S REPRESENTATIVE** to confirm the request in writing on a form that the consumer reporting agency provides to the consumer **OR THE CONSUMER’S REPRESENTATIVE** with the materials sent in accordance with paragraph (4) of this subsection.

(ii) If the consumer **OR THE CONSUMER’S REPRESENTATIVE** fails to return written confirmation that the consumer reporting agency requires under subparagraph (i) of this paragraph, the consumer reporting agency may remove the security freeze in accordance with subsection (g)(2) of this section.

(7) If a consumer for whom a security freeze is requested by the consumer’s representative does not have a consumer report at the time of the request, the consumer reporting agency shall create a consumer report for the consumer for the purpose of imposing a security freeze on it in accordance with this section.

(d) (1) While a security freeze is in place, a consumer reporting agency may not release a consumer’s consumer report or any information derived from a consumer’s consumer report without the express prior authorization of the consumer **OR THE CONSUMER’S REPRESENTATIVE**.

(2) A consumer reporting agency may advise a person that a security freeze is in effect with respect to a consumer’s consumer report.

(3) A consumer reporting agency may not state or imply to any person that a security freeze on a consumer’s consumer report reflects a negative credit score, credit history, or credit rating.

(e) (1) If a consumer **OR A CONSUMER’S REPRESENTATIVE** wants to temporarily lift a security freeze to allow the consumer’s consumer report to be accessed by a specific person or for a specific period of time while a security freeze is in place, the consumer **OR THE CONSUMER’S REPRESENTATIVE** shall:

(i) Contact the consumer reporting agency by:

1. Mail in the manner prescribed by the consumer reporting agency;
2. Telephone in the manner prescribed by the consumer reporting agency;
3. Electronic mail using an electronic postmark if a secure electronic mail connection is made available to the consumer by the consumer reporting agency; or

4. Electronic request if a secure connection is made available on the website of the consumer reporting agency;

   (ii) Request that the security freeze be temporarily lifted; and

   (iii) Provide the following to the consumer reporting agency:

   1. Proper identifying information;

   2. The unique personal identification number or password provided to the consumer under subsection (c)(4)(ii) of this section; and

   3. The proper information regarding the person that is to receive the consumer report or the time period during which the consumer report is to be available to users of the consumer report.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a consumer reporting agency shall comply with a request made under paragraph (1) of this subsection within 3 business days after receiving the request.

   (ii) 1. After January 31, 2009, a consumer reporting agency shall comply with a request made under paragraph (1) of this subsection within 15 minutes after the consumer's request is received by the consumer reporting agency if the request is made by telephone, by electronic mail, or by secure connection on the website of the consumer reporting agency.

   2. A consumer reporting agency that is unable to temporarily lift a security freeze under subsubparagraph 1 of this subparagraph shall lift the security freeze as soon as it is reasonably capable of doing so.

(3) A consumer reporting agency may develop procedures involving the use of facsimile or other electronic media to receive and process, in an expedited manner, a request from a consumer to temporarily lift or remove a security freeze on the consumer's consumer report.

(f) If, in connection with an application for credit or for any other use, a person requests access to a consumer's consumer report while a security freeze is in place and the consumer does not authorize access to the consumer report, the person may treat the application as incomplete.
(g) (1) Except as provided in paragraph (2) of this subsection, a consumer reporting agency may remove or temporarily lift a security freeze placed on a consumer's consumer report only on request of the consumer OR THE CONSUMER'S REPRESENTATIVE made under subsection (e) or (h) of this section.

(2) (i) A consumer reporting agency may remove a security freeze placed on a consumer's consumer report if:

1. Placement of the security freeze was based on a material misrepresentation of fact by the consumer OR THE CONSUMER'S REPRESENTATIVE; or

2. The consumer OR THE CONSUMER'S REPRESENTATIVE:

   A. Made the request to place the security freeze by telephone under subsection (c)(1)(ii) of this section; and

   B. Failed to confirm the request in writing if required in accordance with subsection (c)(6) of this section.

(ii) If a consumer reporting agency intends to remove a security freeze under subparagraph (i) of this paragraph, the consumer reporting agency shall notify the consumer OR THE CONSUMER'S REPRESENTATIVE in writing of its intent at least 5 business days before removing the security freeze.

(h) (1) Subject to subsection (g)(2) of this section, a security freeze shall remain in place until the consumer OR THE CONSUMER'S REPRESENTATIVE requests that the security freeze be removed.

(2) If a consumer OR A CONSUMER'S REPRESENTATIVE wants to remove a security freeze from the consumer's consumer report, the consumer OR THE CONSUMER'S REPRESENTATIVE shall:

(i) Contact the consumer reporting agency by:

   1. Mail in the manner prescribed by the consumer reporting agency;

   2. Telephone in the manner prescribed by the consumer reporting agency;

   3. Electronic mail using an electronic postmark if a secure electronic mail connection is made available to the consumer OR THE CONSUMER'S REPRESENTATIVE by the consumer reporting agency; or
4. Electronic request if a secure connection is made available on the website of the consumer reporting agency;

   (ii) Request that the security freeze be removed; and

   (iii) Provide the following to the consumer reporting agency:

           1. Proper identifying information; and

           2. The unique personal identification number or password provided by the consumer reporting agency under subsection (c)(4)(ii) of this section.

(3) A consumer reporting agency shall remove a security freeze within 3 business days after receiving a request for removal.

   (i) (1) Except as provided in paragraph (2) of this subsection, a consumer or a consumer’s representative may not be charged for any service relating to a security freeze.

   (2) A consumer reporting agency may charge a reasonable fee, not exceeding $5, for each placement, temporary lift, or removal of a security freeze.

   (3) Notwithstanding paragraph (2) of this subsection, a consumer reporting agency may not charge any fee under this section to a consumer or a consumer’s representative who:

           (i) Has obtained a report of alleged identity fraud against the consumer under § 8–304 of the Criminal Law Article or an identity theft passport under § 8–305 of the Criminal Law Article; and

           (ii) Provides a copy of the report or passport to the consumer reporting agency.

   (j) At any time that a consumer is entitled to receive a summary of rights under § 609 of the federal Fair Credit Reporting Act or § 14–1206 of this subtitle, the following notice shall be included:

   “NOTICE

   You have a right, under § 14–1212.1 of the Commercial Law Article of the Annotated Code of Maryland, to place a security freeze on your credit report. The security freeze will prohibit a consumer reporting agency from releasing your credit report or any information derived from your credit report without your express authorization. The purpose of a security freeze is to prevent credit, loans, and services
from being approved in your name without your consent. A PARENT, GUARDIAN, OR CONSERVATOR MAY REQUEST A SECURITY FREEZE ON A CREDIT REPORT OF A MINOR— OR ANOTHER INDIVIDUAL— UNDER GUARDIANSHIP— OR CONSERVATORSHIP.

You may elect to have a consumer reporting agency place a security freeze on your credit report by written request sent by certified mail or by electronic mail or the Internet if the consumer reporting agency provides a secure electronic connection. The consumer reporting agency must place a security freeze on your credit report within 5 business days after your request is received, or within 3 business days starting July 1, 2008. Within 5 business days after a security freeze is placed on your credit report, you will be provided with a unique personal identification number or password to use if you want to remove the security freeze or temporarily lift the security freeze to release your credit report to a specific person or for a specific period of time. You also will receive information on the procedures for removing or temporarily lifting a security freeze.

If you want to temporarily lift the security freeze on your credit report, you must contact the consumer reporting agency and provide all of the following:

(1) The unique personal identification number or password provided by the consumer reporting agency;

(2) The proper identifying information to verify your identity; and

(3) The proper information regarding the person who is to receive the credit report or the period of time for which the credit report is to be available to users of the credit report.

A consumer reporting agency must comply with a request to temporarily lift a security freeze on a credit report within 3 business days after the request is received, or within 15 minutes starting January 31, 2009, for certain requests. A consumer reporting agency must comply with a request to remove a security freeze on a credit report within 3 business days after the request is received.

If you are actively seeking credit, you should be aware that the procedures involved in lifting a security freeze may slow your own applications for credit. You should plan ahead and lift a security freeze, either completely if you are seeking credit from a number of sources, or just for a specific creditor if you are applying only to that creditor, a few days before actually applying for new credit.

A consumer reporting agency may charge a reasonable fee not exceeding $5 for each placement, temporary lift, or removal of a security freeze. However, a consumer reporting agency may not charge any fee to a consumer OR A CONSUMER’S REPRESENTATIVE who, at the time of a request to place, temporarily lift, or remove a
security freeze, presents to the consumer reporting agency a police report of alleged 
identity fraud against the consumer or an identity theft passport.

A security freeze does not apply if you have an existing account relationship and 
a copy of your credit report is requested by your existing creditor or its agents or 
affiliates for certain types of account review, collection, fraud control, or similar 
activities.”

(k) If a consumer reporting agency violates a security freeze by releasing a 
consumer’s consumer report subject to a security freeze or any information derived 
from a consumer’s consumer report subject to a security freeze without 
authorization, the consumer reporting agency, within 5 business days after 
discovering or being notified of the release, shall notify the consumer in writing of:

(1) The specific information released; and

(2) The name and address of, or other available contact information 
for, the recipient of the consumer report or the information released.

(l) The exclusive remedy for a violation of subsection (e)(2)(ii) of this section 
shall be a complaint filed with the Commissioner under § 14–1217 of this subtitle.

14–1212.2.

(A) (1) In this section the following words have the 
meanings indicated.

(2) “Protected consumer” means an individual who is:

(I) Under the age of 16 years at the time a request 
for the placement of a security freeze is made; or

(II) An incapacitated person or a protected person 
for whom a guardian or conservator has been appointed in 
accordance with Title 13 of the Estates and Trusts Article.

(3) “Record” means a compilation of information that:

(I) Identifies a protected consumer;

(II) Is created by a consumer reporting agency 
solely for the purpose of complying with this section; and

(III) May not be created or used to consider the 
protected consumer’s credit worthiness, credit standing, credit
CAPACITY, CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS, OR MODE OF LIVING FOR ANY PURPOSE LISTED IN § 14–1201(d)(1) OF THIS SUBTITLE.

(4) “Representative” means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(5) “Security freeze” means:

(i) If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction that:

1. Is placed on the protected consumer’s record in accordance with this section; and

2. Prohibits the consumer reporting agency from releasing the protected consumer’s record except as provided in this section; or

(ii) If a consumer reporting agency has a file pertaining to the protected consumer, a restriction that:

1. Is placed on the protected consumer’s consumer report in accordance with this section; and

2. Prohibits the consumer reporting agency from releasing the protected consumer’s consumer report or any information derived from the protected consumer’s consumer report except as provided in this section.

(6) (i) “Sufficient proof of authority” means documentation that shows a representative has authority to act on behalf of a protected consumer.

(ii) “Sufficient proof of authority” includes:

1. An order issued by a court of law;

2. A lawfully executed and valid power of attorney; and
3. A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

(7) (i) “Sufficient proof of identification” means information or documentation that identifies a protected consumer or a representative of a protected consumer.

(ii) “Sufficient proof of identification” includes:

1. A Social Security number or a copy of a Social Security card issued by the Social Security Administration;

2. A certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate;

3. A copy of a driver’s license, an identification card issued by the Motor Vehicle Administration, or any other government-issued identification; or

4. A copy of a bill, including a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and home address.

(b) This section does not apply to the use of a protected consumer’s consumer report or record by:

(1) A person administering a credit file monitoring subscription service to which:

(i) The protected consumer has subscribed; or

(ii) The representative of the protected consumer has subscribed on behalf of the protected consumer;

(2) A person providing the protected consumer or the protected consumer’s representative with a copy of the protected consumer’s consumer report on request of the protected consumer or the protected consumer’s representative; or

(3) An entity listed in § 14–1212.1(b)(2)(i) or (ii) or (c)(5) of this subtitle.
(C) (1) A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR A PROTECTED CONSUMER IF:

(I) THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST FROM THE PROTECTED CONSUMER’S REPRESENTATIVE FOR THE PLACEMENT OF THE SECURITY FREEZE UNDER THIS SECTION; AND

(II) THE PROTECTED CONSUMER’S REPRESENTATIVE:

1. Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

2. Provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative;

3. Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer; and

4. Pays to the consumer reporting agency a fee as provided in subsection (i) of this section.

(2) IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE PERTAINING TO A PROTECTED CONSUMER WHEN THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST UNDER PARAGRAPH (I) OF THIS SUBSECTION, THE CONSUMER REPORTING AGENCY SHALL CREATE A RECORD FOR THE PROTECTED CONSUMER.

(D) WITHIN 30 DAYS AFTER RECEIVING A REQUEST THAT MEETS THE REQUIREMENTS OF SUBSECTION (C)(1) OF THIS SECTION, A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR THE PROTECTED CONSUMER.

(E) UNLESS A SECURITY FREEZE FOR A PROTECTED CONSUMER IS REMOVED IN ACCORDANCE WITH SUBSECTION (G) OR (J) OF THIS SECTION, A CONSUMER REPORTING AGENCY MAY NOT RELEASE THE PROTECTED CONSUMER’S CONSUMER REPORT, ANY INFORMATION DERIVED FROM THE PROTECTED CONSUMER’S CONSUMER REPORT, OR ANY RECORD CREATED FOR THE PROTECTED CONSUMER.
(F) A SECURITY FREEZE FOR A PROTECTED CONSUMER PLACED UNDER SUBSECTION (D) OF THIS SECTION SHALL REMAIN IN EFFECT UNTIL:

1. THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER’S REPRESENTATIVE REQUESTS THE CONSUMER REPORTING AGENCY TO REMOVE THE SECURITY FREEZE IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION; OR

2. THE SECURITY FREEZE IS REMOVED IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION.

(G) IF A PROTECTED CONSUMER OR A PROTECTED CONSUMER’S REPRESENTATIVE WISHES TO REMOVE A SECURITY FREEZE FOR THE PROTECTED CONSUMER, THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER’S REPRESENTATIVE SHALL:

1. SUBMIT A REQUEST FOR THE REMOVAL OF THE SECURITY FREEZE TO THE CONSUMER REPORTING AGENCY AT THE ADDRESS OR OTHER POINT OF CONTACT AND IN THE MANNER SPECIFIED BY THE CONSUMER REPORTING AGENCY;

2. PROVIDE TO THE CONSUMER REPORTING AGENCY:

   (i) IN THE CASE OF A REQUEST BY THE PROTECTED CONSUMER:

      1. PROOF THAT THE SUFFICIENT PROOF OF AUTHORITY FOR THE PROTECTED CONSUMER’S REPRESENTATIVE TO ACT ON BEHALF OF THE PROTECTED CONSUMER IS NO LONGER VALID; AND

      2. SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER; OR

   (ii) IN THE CASE OF A REQUEST BY THE REPRESENTATIVE OF A PROTECTED CONSUMER:

      1. SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER AND THE REPRESENTATIVE; AND

      2. SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF THE PROTECTED CONSUMER; AND

3. PAY TO THE CONSUMER REPORTING AGENCY A FEE AS PROVIDED IN SUBSECTION (I) OF THIS SECTION.
(H) **Within 30 days after receiving a request that meets the requirements of subsection (G) of this section, the consumer reporting agency shall remove the security freeze for the protected consumer.**

(I) (1) **Except as provided in paragraph (2) of this subsection, a consumer reporting agency may not charge a fee for any service performed under this section.**

(2) A consumer reporting agency may charge a reasonable fee, not exceeding $5, for each placement or removal of a security freeze for a protected consumer.

(3) **Notwithstanding paragraph (2) of this subsection, a consumer reporting agency may not charge any fee under this section if:**

   (i) **The protected consumer’s representative:**

      1. **Has obtained a report of alleged identity fraud against the protected consumer under § 8–304 of the Criminal Law Article or an identity theft passport under § 8–305 of the Criminal Law Article; and**

      2. **Provides a copy of the report or passport to the consumer reporting agency; or**

   (II) 1. **A request for the placement or removal of a security freeze is for a protected consumer who is under the age of 16 years at the time of the request; and**

      2. **The consumer reporting agency has a consumer report pertaining to the protected consumer.**

(J) A consumer reporting agency may remove a security freeze for a protected consumer or delete a record of a protected consumer if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer’s representative.

(K) **Notwithstanding any other provision of law, the exclusive remedy for a violation of this section shall be a**
COMPLAINT FILED WITH THE COMMISSIONER UNDER § 14–1217 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012 January 1, 2013.

Approved by the Governor, May 2, 2012.