

**Initiative Measure****1185**

Proposed by initiative petition:

## **Initiative Measure No. 1185 concerns tax and fee increases imposed by state government.**

**This measure would restate existing statutory requirements that legislative actions raising taxes must be approved by two-thirds legislative majorities or receive voter approval, and that new or increased fees require majority legislative approval.**

**Should this measure be enacted into law?**

**Yes**

**No**

The Official Ballot Title and Explanatory Statement were written by the Office of the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management as required by law. The Secretary of State is not responsible for the content of arguments or statements (WAC 434-381-180). The complete text of Initiative Measure 1185 is located at the end of this pamphlet.

## **Explanatory Statement**

Written by the Office of the Attorney General

### **The Law as it Presently Exists**

A Washington statute provides that any action or combination of actions by the legislature that raises taxes may be taken only if approved by at least two-thirds legislative approval in both the house of representatives and the senate.

Another Washington statute provides that a state fee may only be imposed or increased in any fiscal year if approved with majority legislative approval in both the house of representatives and the senate, and must be subject to certain accountability

procedures specified in statute. These requirements do not apply to assessments made by agricultural commodity commissions or to the forest products commission.

### **The Effect of the Proposed Measure, if Approved**

This measure would restate the current statutory language regarding tax increases, revising it to state that any action or combination of actions by the legislature that raises taxes may be taken only if approved by a two-thirds vote in both the house of representatives and the senate.

The measure would restate the current statutory language relating to increases in state fees, revising it to state that a fee may only be imposed or increased in any fiscal year if approved with a simple majority vote in both the house of representatives and the senate.

## **Fiscal Impact Statement**

Written by the Office of Financial Management

### **Fiscal Impact through Fiscal Year 2017**

Initiative 1185 is estimated to decrease state transportation revenues and expenditures from requiring new legislative approval to impose tolls on state highways and bridges. The total fiscal impact is indeterminate, but state toll revenue and transportation expenditures are estimated to decrease \$22,800,000 to \$33,100,000 in fiscal year 2017. Requiring new legislative approval to impose fees will also prevent implementation of certain businesses and health care certifications, which is estimated to decrease state revenue by \$2,713,000 and decrease state costs by \$3,611,000 over five fiscal years. There is no fiscal impact on local governments.

### **General Assumptions**

- The initiative applies prospectively with an effective date of Dec. 6, 2012.
- Approval of the initiative will require some state agencies to obtain new legislative approval to impose or increase certain fees after the effective date of the initiative (see Office of Attorney General Informal Opinions discussing I-1053 – Roach dated 12/20/10 and Benton dated 02/17/11).
- Fees set by statute (either a specific amount or formula) are assumed to be unaffected by the

initiative (see Office of Attorney General Informal Opinions discussing I-1053 – Roach dated 12/20/10 and Benton dated 02/17/11).

- The initiative does not impact any new or increased fees adopted by state agencies prior to the effective date (see Office of Attorney General Informal Opinions discussing I-1053 – Roach dated 12/20/10 and Benton dated 02/17/11).
- Because it is unknown what actions will be taken by future legislatures, no fiscal impact is assumed or estimated from the initiative's requirement that any action or combination of actions by the Legislature that raises taxes may be taken only if approved by a two-thirds vote of each house of the Legislature, and then only if state expenditures in a given fiscal year, including new revenue, will not exceed state expenditure limits established in law.
- The initiative is limited to taxes and fees imposed by state government. Therefore, there is no fiscal impact on local governments.
- Estimates are based on information provided by agencies for fiscal notes created during the 2012 legislative session and rounded to the nearest \$1,000.
- Estimates are described using the state's fiscal year (FY) of July 1 through June 30.

### **State Government Revenue and Expenditure Estimates – Assumptions**

The fiscal impact of I-1185 is attributable to its requirement that some agencies will require new legislative approval in order to impose or increase certain fees that the Legislature authorized during the 2011 and 2012 legislative sessions. During this period, it is estimated that the Legislature approved the imposition or increase of 113 fees. Of that amount, an estimated 11 new or increased fees are assumed to be affected.

### **Transportation Revenue, Expenditure and Cost Estimate Assumptions**

During the 2011 and 2012 legislative session, the Legislature authorized the imposition of tolls that are assumed to require new legislative approval:

- Interstate 405 high-occupancy vehicle lanes in Engrossed House Bill 1382 (2011).
- The Alaskan Way Viaduct replacement project in Substitute Senate Bill 6444 (2012).
- The Columbia River Crossing project in Engrossed Substitute Senate Bill 6445 (2012).

For the Columbia River Crossing project and Interstate 405 high-occupancy vehicle lanes, it is not known when tolls would be set during the period covered by this fiscal impact statement (FY 2013–17) or the toll amount. Therefore, the state revenue and state expenditure impact from the requirement of new legislative approval to impose tolls is indeterminate.

The Legislature enacted legislation requiring the Alaskan Way Viaduct replacement project financing plan to include no more than \$400 million in toll revenue (see RCW 47.01.402). Assuming the initiative requires new legislative approval to impose tolls on the Alaskan Way Viaduct replacement project, state toll revenue is estimated to decrease within a range of \$22,800,000 to \$33,100,000, and state toll costs are estimated to decrease within a range of \$10,100,000 to \$11,500,000 over five fiscal years assuming tolling does not begin until FY 2017. It is assumed that state expenditures for this project or other transportation projects will be reduced or eliminated by \$12,700,000 to \$21,600,000 to balance expenditures to the total decrease in state toll revenue.

In addition, legislative approval was given in Substitute Senate Bill 5700 (2011) and the transportation appropriation act for the Washington State Transportation Commission to review and adjust tolls during the 2011–13 biennium for the Tacoma Narrows Bridge and the State Route 520 corridor. Tolls for the Tacoma Narrows Bridge and the State Route 520 corridor are set annually and must be used to pay bonds (debt); pay costs related to the operation, maintenance and management of the facility; and if necessary, repay amounts to the Motor Vehicle Fund. It is not known if it will be necessary during the 2011–13 biennium to increase tolls for the Tacoma Narrows Bridge and the State Route 520 corridor, and therefore impact on state revenues and expenditures is indeterminate.

### **Business Certifications and Endorsements Assumptions**

During the 2012 legislative session, the Legislature authorized the imposition of fees to fund Department of Health costs for activities related to four new health care certifications and endorsements:

- Medication assistant endorsement for certified nursing assistants in Engrossed Substitute House Bill 2473 (2012).

- Dental anesthesia assistant certification in Engrossed Second Substitute Senate Bill 5620 (2012).
- Reflexologist certification in Engrossed Substitute Senate Bill 6103 (2012).
- Medical assistant certification in Engrossed Substitute Senate Bill 6237 (2012).

RCW 43.70.110 and 43.70.250 require that state costs for each professional, occupational or business licensing program administered by the Department of Health be fully borne by the members of that profession, occupation or business. Assuming the initiative requires new legislative approval of the department's fee authority, it is assumed that current law will also prevent the creation of these four new health care certifications and endorsements. Therefore, state fee revenue is estimated to decrease \$2,454,000 and state costs are estimated to decrease \$3,350,000 over five fiscal years.

During the 2011 legislative session, the Legislature authorized in Second Substitute Senate Bill 5034 the imposition of fees to fund Utility and Transportation Commission costs related to the certification of private wastewater operators. The commission is not required to engage in rulemaking to implement the certification until it has collected sufficient payments to cover its projected costs. Assuming the initiative requires new legislative approval for the commission's fee authority, it is also assumed that commission will not engage in rulemaking. Therefore, state fee revenue is estimated to decrease \$259,000 and state costs are estimated to decrease \$261,000 over five fiscal years.

See Table 1.1 and Table 1.2 for details on state revenue and state cost impacts from business certifications and endorsements

### Recreation Fees Assumptions

During the 2012 legislative session, the Department of Fish and Wildlife, the Department of Natural Resources and the Parks and Recreation Commission were authorized in Engrossed Second Substitute House Bill 2373 the option of offering a Family Discover Pass transferrable among vehicles. The agencies are required to collectively set the price of the pass at an amount no more than \$50. The requirement of new legislative approval will prevent the agency from offering the Family Discover Pass. The state revenue and expenditure impacts are indeterminate because it is unknown how the sales of the Family Discover Pass would impact overall Discover Pass sales.

**Table 1.1 State Business Certification and Endorsement Revenue Impact**

State Revenue Impact	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Health Professions Account	\$0	\$864,000	\$308,000	\$919,000	\$363,000
Public Service Revolving Fund	\$81,000	\$20,000	\$85,000	\$42,000	\$31,000
State Total	\$81,000	\$884,000	\$393,000	\$961,000	\$394,000

**Table 1.2 State Business Certification and Endorsement Cost Impact**

State Revenue Impact	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Dept. of Health	\$220,000	\$1,546,000	\$773,000	\$403,000	\$408,000
Utility and Transportation Commission	\$81,000	\$53,000	\$53,000	\$37,000	\$37,000
State Total	\$301,000	\$1,599,000	\$826,000	\$440,000	\$445,000

## Argument For Initiative Measure 1185

### Four Times the Voters Have Approved Initiatives Requiring Either a Two-Thirds Vote of the Legislature...

...or majority vote of the people to raise taxes. Four times. Just two years ago, 64% of voters approved it. The people clearly want tax increases to be *an absolute last resort*.

Nonetheless, Olympia will take it away next year unless we pass I-1185. Recent history shows why I-1185 is necessary to protect struggling taxpayers.

### For the Two Years Following Voters Approval in 2007, I-960 Worked Exactly as Voters Intended

With I-960, tax increases *were* a last resort and Olympia balanced its budgets without raising taxes. In 2010, they suspended I-960 and increased taxes *a whopping \$6.7 billion* (10-year cost according to state's budget office), a huge betrayal of the public trust. I-1185 stops them from doing that again.

### We Need Certainty in Tough Economic Times

The worst thing state government could do is hamper the conditions for economic growth. We need an economic climate where families feel confident, employers expand, job growth is positive. I-1185 provides a stable future, giving families and employers the certainty they need to prosper.

### Olympia Faces Another Big Deficit Because Unsustainable Spending has Once Again Outstripped Revenue

We simply can't afford to have it all. With I-1185's extension of I-960's taxpayer protections, Olympia will be encouraged to reform government, prioritize spending and re-evaluate existing programs. Without I-1185, they'll resort to job-killing, family-budget-busting tax increases. Hold Olympia accountable for your tax dollars – vote *yes*.

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### Rebuttal of Argument Against

Since 1993, Washington's had the two-thirds requirement. In those 20 years, during legislative sessions when it's been in effect, tax hikes were a last resort resulting in more reform and fewer taxes. When Olympia suspends it (like 2010), tax increases become a first resort with less reform and much higher taxes. It shouldn't be easy for government to take more of the people's money. Protect yourself by extending I-960's various protections with I-1185 – vote *yes*.

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### Argument Prepared by

**Erma Turner**, retired hairdresser, businesswoman, our favorite supporter, Cle Elum; **Darryl Ehlers**, farmer, husband, father, poet, gathered 1169 signatures, Lynden; **Jack Fagan**, retired policeman, retired navy, grandfather, bowler, fisherman, hunter; **Larry Stanley**, retired small business owner, active in community, Spokane; **Brad Carlson**, family small business owner, Evergreen Memorial Gardens, Vancouver; **Suzie Burke**, businesswoman, Fremont's biggest small business advocate, Seattle

**Contact:** (425) 493-8707; YesOn1185@gmail.com; www.YesOn1185.com

## Argument Against Initiative Measure 1185

Tim Eyman, funded by big corporate interests, is back with Initiative 1185. This flawed and unconstitutional measure makes it nearly impossible to provide adequate funding for public schools and social services.

### Cuts funding for vital services

Measures like 1185 may sound like a way to protect taxpayers, but Colorado passed a similar measure with disastrous results. It cut off funding for schools, roads, and immunizations for kids, and caused so many problems that Colorado's Republican Governor proposed a measure to suspend it, which voters passed.

### 1185 rewards special interests

Public Disclosure Commission reports show most of the million dollars plus spent to put 1185 on the ballot came from big oil companies, beer companies, and other Olympia special interests. These corporations want to rig the rules to prevent having to pay their fair share.

### 1185 blocks closing tax loopholes

Eyman's initiative is so poorly written that under 1185 it only takes a majority vote to give corporations a special tax loophole – but then requires a two-thirds vote to *eliminate* that same loophole. That's wrong.

### 1185 is unconstitutional

A respected judge recently ruled the core provision of 1185 is unconstitutional. Why? Our constitution plainly states that legislation passes with a *majority* vote. Other states with a two-thirds rule did it by amending their constitutions, but Eyman has refused to propose a constitutional amendment. Community leaders across Washington oppose 1185 because it is designed to block efforts to make the wealthy and powerful pay their share. Vote *no* on 1185.

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### Rebuttal of Argument For

Another year, another deceptive Eyman initiative. BP and Conoco Phillips are spending hundreds of thousands of dollars to pass this initiative to protect costly and unfair tax breaks for Big Oil and other special interests. 1185 means further deep cuts for our schools, on services for seniors and the disabled, and public safety. Vote *no* on 1185 to stop Eyman and his big money backers from trashing our constitution to suit their own selfish purposes.

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### Argument Prepared by

**Douglas MacDonald**, former Washington State Secretary of Transportation; **Don Orange**, Vancouver small business owner, chair, Main Street Alliance; **Pam Kruse**, Pierce county public school teacher; **Reuven Carlyle**, Business owner, public school parent and citizen legislator; **Teri Nicholson**, Registered Nurse, Spokane; **Gerald Reilly**, Chair, ElderCare Alliance, Olympia

**Contact:** voteno1185@gmail.com; www.no1185.org

## Complete Text

### Initiative Measure 1185

AN ACT Relating to taxes and fees imposed by state government; amending RCW 43.135.034, 43.135.055, 43.135.031, and 43.135.041; creating new sections; and repealing 2010 c 4 s 2.

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

#### INTENT

**NEW SECTION. Sec. 1.** This initiative should deter the governor and the legislature from sidestepping, suspending, or repealing any of Initiative 1053's policies which voters approved by a huge margin in 2010. The people insist that tax increases receive either two-thirds legislative approval or voter approval and fee increases receive a simple majority vote. These important policies ensure that taxpayers will be protected and that taking more of the people's money will always be an absolute last resort.

#### PROTECTING TAXPAYERS BY REQUIRING EITHER TWO-THIRDS LEGISLATIVE APPROVAL OR VOTER APPROVAL FOR THE LEGISLATURE TO RAISE TAXES

**Sec. 2.** RCW 43.135.034 and 2011 c 1 s 2 are each amended to read as follows:

(1)(a) ~~((After July 1, 1995, a))~~ Any action or combination of actions by the legislature that raises taxes may be taken only if approved by ~~((at least))~~ a two-thirds ~~((legislative approval))~~ vote in both the house of representatives and the senate. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.

(b) For the purposes of this chapter, "raises taxes" means any action or combination of actions by the state legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

(2)(a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election. The state expenditure limit committee shall adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment shall not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit shall be adjusted downward upon expiration or repeal of the legislative action.



#### How do I read measure text?

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

~~((sample of text to be deleted))~~

Any underlined language does not appear in current state law but will be added to the law if this measure is approved by voters.

sample of text to be added

(b) The ballot title for any vote of the people required under this section shall be substantially as follows:

"Shall taxes be imposed on.....in order to allow a spending increase above last year's authorized spending adjusted for personal income growth?"

(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor. The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.

(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes shall expire upon expiration of the declaration of emergency. The legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.

(c) The state or any political subdivision of the state shall not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

(4) If the cost of any state program or function is shifted from the state general fund to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall lower the state expenditure limit to reflect the shift. For the purposes of this section, a transfer of money from the state general fund to another fund or account includes any state legislative action taken that has the effect of reducing revenues from a particular source, where such revenues would otherwise be deposited into the state general fund, while increasing the revenues from that particular source to another state or local government account. This subsection does not apply to: (a) The dedication or use of lottery revenues under RCW 67.70.240(3), in support of education or education expenditures; or (b) a transfer of moneys to, or an expenditure from, the budget stabilization account.

(5) If the cost of any state program or function and the ongoing revenue necessary to fund the program or function are shifted to the state general fund on or after January 1, 2007, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall increase the state expenditure limit to reflect the shift unless the shifted revenue had previously been shifted from the general fund.

(6) For the purposes of chapter, "raises taxes" means any action or combination of actions by the legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

**Sec. 3.** 2010 c 4 s 2 is repealed.

#### PROTECTING TAXPAYERS BY REQUIRING FEE INCREASES RECEIVE A SIMPLE MAJORITY VOTE

**Sec. 4.** RCW 43.135.055 and 2011 c 1 s 5 are each amended to read as follows:

(1) A fee may only be imposed or increased in any fiscal year if approved with a simple majority ~~((legislative approval))~~ vote in both the house of representatives and the senate and must be subject to the accountability procedures required by RCW 43.135.031.

(2) This section does not apply to an assessment made by an agricultural commodity commission or board created by state statute or created under a marketing agreement or order under chapter 15.65 or 15.66 RCW, or to the forest products commission, if the assessment is approved by referendum in accordance with the provisions of the statutes creating the commission or board or chapter 15.65 or 15.66 RCW for approving such assessments.

#### STATUTORY REFERENCE CORRECTIONS

**Sec. 5.** RCW 43.135.031 and 2010 c 1 s 2 are each amended to read as follows:

(1) For any bill introduced in either the house of representatives or the senate that raises taxes as defined by (~~(\*)RCW 43.135.035~~) RCW 43.135.034 or increases fees, the office of financial management must expeditiously determine its cost to the taxpayers in its first ten years of imposition, must promptly and without delay report the results of its analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, who are sponsors and cosponsors of the bill so they can provide information to, and answer questions from, the public.

(2) Any time any legislative committee schedules a public hearing on a bill that raises taxes as defined by (~~(\*)RCW 43.135.035~~) RCW 43.135.034 or increases fees, the office of financial management must promptly and without delay report the results of its most up-to-date analysis of the bill required by subsection (1) of this section and the date, time, and location of the hearing by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. The press release required by this subsection must include all the information required by subsection (1) of this section and the names of the legislators, and their contact information, who are members of the legislative committee conducting the hearing so they can provide information to, and answer questions from, the public.

(3) Each time a bill that raises taxes as defined by (~~(\*)RCW 43.135.035~~) RCW 43.135.034 or increases fees is approved by any legislative committee or by at least a simple majority in either the house of representatives or the senate, the office of financial management must expeditiously reexamine and redetermine its ten-year cost projection due to amendment or other changes during the legislative process, must promptly and without delay report the results of its most up-to-date analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, and how they voted on the bill so they can provide information to, and answer questions from, the public.

(4) For the purposes of this section, "names of legislators, and their contact information" includes each legislator's position (senator or representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office e-mail address.

(5) For the purposes of this section, "news media" means any member of the press or media organization, including

newspapers, radio, and television, that signs up with the office of financial management to receive the public press releases by e-mail.

(6) For the purposes of this section, "the public" means any person, group, or organization that signs up with the office of financial management to receive the public press releases by e-mail.

**Sec. 6.** RCW 43.135.041 and 2010 c 4 s 3 are each amended to read as follows:

(1)(a) After July 1, 2011, if legislative action raising taxes as defined by (~~(\*)RCW 43.135.035~~) RCW 43.135.034 is blocked from a public vote or is not referred to the people by a referendum petition found to be sufficient under RCW 29A.72.250, a measure for an advisory vote of the people is required and shall be placed on the next general election ballot under this chapter(~~(1, Laws of 2008)~~).

(b) If legislative action raising taxes enacted after July 1, 2011, involves more than one revenue source, each tax being increased shall be subject to a separate measure for an advisory vote of the people under the requirements of this chapter(~~(1, Laws of 2008)~~).

(2) No later than the first of August, the attorney general will send written notice to the secretary of state of any tax increase that is subject to an advisory vote of the people, under the provisions and exceptions provided by this chapter(~~(1, Laws of 2008)~~). Within five days of receiving such written notice from the attorney general, the secretary of state will assign a serial number for a measure for an advisory vote of the people and transmit one copy of the measure bearing its serial number to the attorney general as required by RCW 29A.72.040, for any tax increase identified by the attorney general as needing an advisory vote of the people for that year's general election ballot. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this subsection.

(3) For the purposes of this section, "blocked from a public vote" includes adding an emergency clause to a bill increasing taxes, bonding or contractually obligating taxes, or otherwise preventing a referendum on a bill increasing taxes.

(4) If legislative action raising taxes is referred to the people by the legislature or is included in an initiative to the people found to be sufficient under RCW 29A.72.250, then the tax increase is exempt from an advisory vote of the people under this chapter(~~(1, Laws of 2008)~~).

#### CONSTRUCTION CLAUSE

**NEW SECTION. Sec. 7.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

#### SEVERABILITY CLAUSE

**NEW SECTION. Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

#### MISCELLANEOUS

**NEW SECTION. Sec. 9.** This act is known and may be cited as "Save The 2/3's Vote For Tax Increases (Again) Act."

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## Complete Text Initiative Measure 1240

AN ACT Relating to public charter schools; amending RCW 28A.150.010, 28A.315.005, and 41.05.011; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; adding a new section to chapter 41.40 RCW; adding a new