

CPARB Sub-Committee for BE/DBI
Sub-Subcommittee for Senate Bill 6040 - recommendations for Prompt Pay

Attendees:

Bill Frare; DES

Olivia Yang; WSU

Maja Huff; WSU

Jackie Bayne; WSDOT

Lekha Fernandes; OMWBE

Keith Michel; FORMA Construction

Chip Tull; Hoffman Construction

What is the focus of this sub-subcommittee to be, relative to SB 6040?

SB 6040 Language includes the following:

(2) The legislature intends to review how well prompt pay provisions are working for small businesses, particularly women and minority-owned businesses, potential improvements that could be considered, and the potential impacts on the industry any recommendations might have.

NEW SECTION. **Sec. 2.** (1)(a) The capital projects advisory review board created in chapter 39.10 RCW shall review the extent to which prompt pay statutes meet the needs of small businesses, as defined in RCW 39.26.010, particularly women and minority-owned businesses as certified under chapter 39.19 RCW or as officially recognized as such by a local public entity. These statutes include RCW 39.04.250, 39.76.011, and 39.76.020. *Action for different sub-subcommittee?*

(b) The capital projects advisory review board must present findings and any recommendations the board develops to the appropriate committees of the legislature on or before November 1, 2024.

(2) In carrying out the review and considering possible recommendations under subsection (1) of this section, the board shall engage with a broad range of stakeholders. *Action for different sub-subcommittee*

NEW SECTION. **Sec. 3.** In considering possible recommendations under section 2(1)(b) of this act, at a minimum the capital projects advisory review board shall consider:

(1) Requiring the state and local entities to pay the prime contractor within 30 days for work satisfactorily completed or materials delivered by a subcontractor of any tier that is a small business certified with the office of minority and women's business enterprises under chapter 39.19 RCW, or is recognized as a women or minority-owned business enterprise in a state of Washington port, county, or municipal small business or women or minority-owned business enterprise program;

From a practical/actionable standpoint, the above language needs to be revisited because as written, the Owner would need to pay the prime contractor 30 days after each day of work was deemed satisfactorily installed or materials were delivered. This does not address invoicing for the work installed and would require daily payments to be issued. This is not currently practical for Owners, Primes, or Subcontractors due to other statutory requirements.

(2) Requiring that, within 10 days of receipt of payment, the prime contractor and each higher tier subcontractor must make payment to its subcontractor until the subcontractor that is a certified small business or recognized women or minority-owned business has received payment. *Isn't this already a requirement under a different legislative section?*

Discussion:

What can we do, as policy folks representing the construction industry, to provide recommendations to the legislature for how to expedite payment to small and diverse firms. These firms need: (1) work Opportunities, (2) be successful in winning work, (3) be successful in completing the work, (4) get paid promptly to pay bills and labor to allow a profit and grow their businesses

What is the statutory guidance for paying firms? This research needs to be done to avoid conflict and/or overlap with existing legislation.

The challenge is that the work is done on 'x' day and payment is not received until 'y' day. The prompt pay discussion is based upon the need to reduce the time between 'x' and 'y'!

Time is needed to verify and confirm work is completed. There is a statute that states that public entities cannot gift funds, which would be violated if payment was made ahead of verification of work completion.

So, how do we pay firms faster?

We have the obligation to define findings and recommendations for 'prompt pay' to be responsive to this legislation.

Small and diverse firms have been actively voicing the struggles with prompt payment. The challenge is that to date, this has been primarily anecdotal. Empirical data is needed to expose the extent of this issue. Software, that is being used by some agencies, such as B2GNow, is an option for documenting this issue.

Whatever the solution, the impact needs to be there for BE/DBI firms at a minimum but wouldn't it also be an overall benefit if all firms are positively affected?

In other words, looking at ways to improve the payment process to small and diverse firms will likely have benefit to all firms and thus should receive support by all.

It will be important to test a solution on the small and diverse firms and if it works for these firms, it is going to trickle up to all other firms.

Question: What is a timeline and frequency desired for payment by small, diverse firms? Shouldn't we ask?

Again, the Intent: How do we get small and diverse firms paid sooner? Desire is for proposed legislation to achieve this.

Work is done Dec 1 – 31 for instance. Then the Owner has 30 days to review that completed work. And then checks are issued, which can take 10 days between issuance and receipt. If work was completed on Dec 1st for instance, the Prime is not going to receive payment for that work, possibly performed by a small, diverse business for up to 70 days based upon the aforementioned timeline. If that work was performed by a sub-sub-sub tier, that firm could according to current statutory requirements not get paid for 100 days after the work was completed...

Also related to this conversation is change order work and contract closeout.

- Change Orders take much longer just to get to the payment process
- Contract Closeout can take a very long period as well

This sub-subcommittee needs to develop the Problem Statement:
Focus on this first!

We don't need to talk about what needs to be in the legislation

Stakeholders are another group, so not a responsibility of this sub-subcommittee

Look at next Tuesday for the next meeting

We need to provide a report to the legislature that defines the current state of what exists in terms of legislation, what is a reasonable timeline from completed work to receiving payment and recommendations to make that possible

Draft Report Outline:

1. Current State:
 - a. Glossary of terminology.
 - b. Define the process, terminology and timelines and legislation of existing payment practices.
 - i. Data from: DES, WSDOT, WSU, UW,
 - ii. Data from Primes to First Tier: receipt of payment, issue of payment.
 - iii. OMWBE - how much data do they actually have now?
 - c. List of existing legislation that has an impact on prompt payment. (See bottom of notes for the language for each)
 - i. 39.04.250
 - ii. 39.04.360
 - iii. 39.26.180
 - iv. 39.76.011
 - v. 43.88.160
 - vi. The state cannot extend credit for services that have not been received - in the state constitution.
2. Change and Dispute Work:
 - a. Bad actors - those that want to pay and those that don't want to pay.
 - b. Contract Closeout. Retainage
3. Analytics:
 - a. If the current system was actually working - would people have a problem?
 - i. Where are the actual pinch points?
 - ii. Trust but Verify - not legislatively driven?
 - b. Answer the question: What is a reasonable timeline from completion of work / contractor expense to when contractor has received payment from the Owner? (could the outreach committee begin working on answering this question) Wage earner versus business payment timeline. Days from performance of work to payment of work. Manage expectation.
 - i. 10 days is already a requirement from prime to sub and each level below
 - ii. Is normal = monthly invoice? Invoicing once a month at end of the month.
 - iii. Cash Flow needs
4. Future State:
 - a. Practice recommendations and legislation recommendations.
 - b. Transparency and accountability

Report back to legislature

What sort of data are we going to provide?

What are some potential improvements?

What are the impacts to the industry?

If there is a consensus around legislation, then we can go down that path

What data are we going to look at?

Some may say current prompt pay is working well as-it-is but others are saying it isn't

Will this be anecdotal data or empirical data from somewhere?

Does B2GNow give us enough data to assess whether current prompt pay is working or isn't?

DES and WSDOT use B2GNow

DES only tracks payments to Primes, not sub-tiers (Bill to confirm this is captured accurately)

GCs don't typically have this information either, they have when they received payment and when they cut checks to their direct subcontractors and vendors

From conversations, the biggest opportunity to reduce time to small and diverse business receipt of payment appears to be by:

- reducing the time from invoice submission by the Prime Contractor to the Owner to payment receipt by the Prime Contractor from the Owner
- the next successive opportunities appear to be:
 - reducing the time from payment receipt by the Prime Contractor and subs/sub-tiers to the time payment is received by subs/sub-tiers at every level
 - reducing the time from when work is installed until work is invoiced

From conversations, the other most relevant issues are:

- Transparency and Tracking of issuing payments timely according to legislative requirements
- Accountability for issuing payments timely according to legislative requirements

The following are the RCW sections listed above (for ease of reference). I have reviewed them all and highlighted the portions I thought were applicable. Nothing in the RCW 39.26.180 Contract Management section jumped out at me as highlighting-worthy, so if anyone sees something that should have attention called to it, please let me know.

RCW 39.04.250

Payments received on account of work performed by subcontractor— Disputed amounts—Remedies.

(1) When payment is received by a contractor or subcontractor for work performed on a public work, the contractor or subcontractor shall pay to any subcontractor not later than ten days after the receipt of the payment, amounts allowed the contractor on account of the work performed by the subcontractor, to the extent of each subcontractor's interest therein.

(2) In the event of a good faith dispute over all or any portion of the amount due on a payment from the state or a municipality to the prime contractor, or from the prime contractor or subcontractor to a subcontractor, then the state or the municipality, or the prime contractor or subcontractor, may withhold no more than one hundred fifty percent of the disputed amount. Those not a party to a dispute are entitled to full and prompt payment of their portion of a draw, progress payment, final payment, or released retainage.

(3) In addition to all other remedies, any person from whom funds have been withheld in violation of this section shall be entitled to receive from the person wrongfully withholding the funds, for every month and portion thereof that payment including retainage is not made, interest at the highest rate allowed under RCW [19.52.025](#). In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to costs of suit and reasonable attorneys' fees.

RCW [39.04.360](#)

Payment of undisputed claims.

*** CHANGE IN 2024 *** (SEE [6192-S.SL](#)) ***

No later than thirty days after satisfactory completion of any additional work or portion of any additional work by a contractor on a public works project, the state or municipality shall issue a change order to the contract for the full dollar amount of the work not in dispute between the state or municipality and the contractor. If the state or municipality does not issue such a change order within the thirty days, interest must accrue on the dollar amount of the additional work satisfactorily completed and not in dispute until a change order is issued. The state or municipality shall pay this interest at a rate of one percent per month. For the purposes of this section, additional work is work beyond the scope defined in the contract between the contractor and the state or municipality.

RCW [39.26.180](#)

Contract management.

(1) The department must adopt uniform policies and procedures for the effective and efficient management of contracts by all state agencies. The policies and procedures must, at a minimum, include:

(a) Precontract procedures for selecting potential contractors based on their qualifications and ability to perform, including procedures to ensure compliance with chapter [39.19](#) (*Office of Minority and Women's Business Enterprises*) RCW, and providing for participation of minority and women-owned businesses;

(b) Model complaint and protest procedures;

(c) Alternative dispute resolution processes;

(d) Incorporation of performance measures and measurable benchmarks in contracts;

(e) Model contract terms to ensure contract performance and compliance with state and federal standards, including terms to facilitate recovery of the costs of employee staff time that must be expended to bring a contract into substantial compliance, and terms required under RCW [41.06.142](#); (*Contracting for services...*)

(f) Executing contracts using electronic signatures;

(g) Criteria for contract amendments;

(h) Postcontract procedures;

(i) Procedures and criteria for terminating contracts for cause or otherwise, including procedures and criteria for terminating performance-based contracts that are not achieving performance standards;

(j) A requirement that agencies, departments, and institutions of higher education monitor performance-based contracts, including contracts awarded pursuant to RCW [41.06.142](#), to ensure that all aspects of the contract are being properly performed and that performance standards are being achieved; and

(k) Any other subject related to effective and efficient contract management.

(2) An agency may not enter into a contract under which the contractor could charge additional costs to the agency, the department, the joint legislative audit and review committee, or the state auditor for access to data generated under the contract. A contractor under such a contract must provide access to data generated under the contract to the contracting agency, the joint legislative audit and review committee, and the state auditor.

(3) To the extent practicable, agencies should enter into performance-based contracts. Performance-based contracts identify expected deliverables and performance measures or outcomes. Performance-based contracts also use appropriate techniques, which may include but are not limited to, either consequences or incentives or both to ensure that agreed upon value to the state is received. Payment for goods and services under performance-based contracts should be contingent on the contractor achieving performance outcomes.

(4) An agency and contractor may execute a contract using electronic signatures.

(5) As used in subsection (2) of this section, "data" includes all information that supports the findings, conclusions, and recommendations of the contractor's reports, including computer models and the methodology for those models.

RCW [39.76.011](#)

Interest on unpaid public contracts—When payment is considered to be made.

(1) Except as provided in RCW [39.76.020](#), (*Interest on unpaid contracts – Exceptions*), every state agency, county, city, town, school district, board, commission, or any other public body shall pay interest at a rate of one percent per month, but at least one dollar per month, on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel, whenever the public body fails to make timely payment.

(2) For purposes of this section, payment shall be timely if:

(a) Except as provided otherwise in this subsection, a check or warrant is mailed or is available on the date specified for the amount specified in the applicable contract documents but not later than thirty days of receipt of a properly completed invoice or receipt of goods or services, whichever is later. If a contract is funded by grant or federal money, the public body shall pay the prime contractor for satisfactory performance within thirty calendar days of the date the public body receives a payment request that complies with the contract or within thirty calendar days of the date the public body actually receives the grant or federal money, whichever is later.

(b) On written contracts for public works, when part or all of a payment is going to be withheld for unsatisfactory performance or if the payment request made does not comply with the requirements of the contract, the public body shall notify the prime contractor in writing within eight working days after receipt of the payment request stating specifically why part or all of the payment is being withheld and what remedial actions must be taken by the prime contractor to receive the withheld amount.

(c) If the notification by the public body required by (b) of this subsection does not comply with the notice contents required under (b) of this subsection, the public body shall pay the interest under subsection (1) of this section from the ninth working day after receipt of the initial payment request until the contractor receives notice that does comply with the notice contents required under (b) of this subsection.

(d) If part or all of a payment is withheld under (b) of this subsection, the public body shall pay the withheld amount within thirty calendar days after the prime contractor satisfactorily completes the remedial actions identified in the notice. If the withheld amount is not paid within the thirty calendar days, the public body shall pay interest under subsection (1) of this section from the thirty-first calendar day until the date paid.

(e)(i) If the prime contractor on a public works contract, after making a request for payment to the public body but before paying a subcontractor for the subcontractor's performance covered by the payment request, discovers that part or all of the payment otherwise due to the subcontractor is subject to withholding from the subcontractor under the subcontract for unsatisfactory performance, the prime contractor may withhold the amount as allowed under the subcontract. If the prime contractor withholds an amount under this subsection, the prime contractor shall:

(A) Give the subcontractor notice of the remedial actions that must be taken as soon as practicable after determining the cause for the withholding but before the due date for the subcontractor payment;

(B) Give the contracting officer of the public body a copy of the notice furnished to the subcontractor under (e)(i)(A) of this subsection; and

(C) Pay the subcontractor within eight working days after the subcontractor satisfactorily completes the remedial action identified in the notice.

(ii) If the prime contractor does not comply with the notice and payment requirements of (e)(i) of this subsection, the contractor shall pay the subcontractor interest on the withheld amount from the eighth working day at an interest rate that is equal to the amount set forth in subsection (1) of this section.

(3) For the purposes of this section:

(a) A payment is considered to be made when mailed or personally delivered to the party being paid.

(b) An invoice is considered to be received when it is date-stamped or otherwise marked as delivered. If the invoice is not date-stamped or otherwise marked as delivered, the date of the invoice is considered to be the date when the invoice is received.

RCW [43.88.160](#)

Fiscal management—Powers and duties of officers and agencies.

*** CHANGE IN 2024 *** (SEE [1947-S.SL](#)) ***

This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) Except as provided in chapter [43.88C](#) (*Caseload Forecast Council*) RCW, the director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting

and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

(i) For those agencies that the director determines internal audit is required, the agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following professional audit standards including generally accepted government auditing standards or standards adopted by the institute of internal auditors, or both.

(ii) For those agencies that the director determines internal audit is not required, the agency head or authorized designee may establish and maintain internal audits following professional audit standards including generally accepted government auditing standards or standards adopted by the institute of internal auditors, or both, but at a minimum must comply with policies as established by the director to assess the effectiveness of the agency's systems of internal controls and risk management processes;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter the plans, except that for the following agencies no amendment or alteration of the plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized employee years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix the number or the classes for the following: Agencies headed by elective officials;

(g) Adopt rules to effectuate provisions contained in (a) through (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons:

PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW [43.41.180](#); (*Electronic funds and information transfer – State agency use.*)

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than equipment maintenance providers or as provided for by RCW [42.24.035](#), (*Payment for postage, books, and periodicals.*) such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of enterprise services but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than twelve months after such payment except that institutions of higher education as defined in RCW [28B.10.016](#) (*Definitions.*) and the consolidated technology services agency created in RCW [43.105.006](#) (*Consolidated technology services agency - Purpose.*) may make payments in advance for equipment maintenance services to be performed up to sixty months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with rules issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current

post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications and performance audits as expressly authorized by the legislature in the omnibus biennial appropriations acts or in the performance audit work plan approved by the joint legislative audit and review committee. The state auditor, upon completing an audit for legal and financial compliance under chapter [43.09](#) (*State Auditor*) RCW or a performance verification, may report to the joint legislative audit and review committee or other appropriate committees of the legislature, in a manner prescribed by the joint legislative audit and review committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or in the performance audit work plan. The results of a performance audit conducted by the state auditor that has been requested by the joint legislative audit and review committee must only be transmitted to the joint legislative audit and review committee.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken within six months, such action to include, as appropriate, the withholding of funds as provided in RCW [43.88.110](#). (*Expenditure programs – Allotments – Reserves – Monitor capital appropriations – Predesign review for major capital construction.*) The director of financial management shall annually report by December 31st the status of audit resolution to the appropriate committees of the legislature, the state auditor, and the attorney general. The director of financial management shall include in the audit resolution report actions taken as a result of an audit including, but not limited to, types of personnel actions, costs and types of litigation, and value of recouped goods or services.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter [42.40](#) (*State Whistleblower Protection*) RCW.

In addition to the authority given to the state auditor in this subsection (6), the state auditor is authorized to conduct performance audits identified in RCW [43.09.470](#).

(Comprehensive performance audits – Scope - Reports) Nothing in this subsection (6) shall limit, impede, or restrict the state auditor from conducting performance audits identified in RCW **43.09.470**.

(7) The joint legislative audit and review committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in chapter **44.28** *(Joint Legislative Audit and Review Committee)* RCW as well as performance audits and program evaluations. To this end the joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management.

From Washington State Constitution: (Shared by Bill Frare by email after the meeting)

No lending of credit. Washington State Constitution Article 8, Section 7:

SECTION 7 CREDIT NOT TO BE LOANED. No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm, or become directly or indirectly the owner of any stock in or bonds of any association, company or corporation.

From MRSC's page:

Origins of the Doctrine

The two sections of the state constitution from which the doctrine stems are as follows:

- [Article 8](#), Section 5, Credit not to be loaned: The credit of the state shall not, in any manner be given or loaned to, or in aid of, any individual, association, company or corporation.
- [Article 8](#), Section 7, Credit not to be loaned: No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm...

End of Notes