

**FIFTY-FIRST DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Tuesday, February 28, 2006

The Senate was called to order at 9:00 a.m. by President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senators Benton, Doumit, Finkbeiner, Honeyford, Keiser, Mulliken, Pflug and Swecker.

The Sergeant at Arms Color Guard consisting of Pages Daniel Hageman and David Hageman, presented the Colors. Rabbi Seth Goldstein of Temple Beth Hatfiloh of Olympia offered the prayer.

**MOTION**

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

**MOTION**

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

**MESSAGES FROM THE STATE OFFICES**

February 24, 2006

**STATE OF WASHINGTON**

Olympia, Washington 98504-5000

Mr. Thomas Hoemann  
Secretary of the Senate  
P.O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. Hoemann:

Enclosed is DSHS - Quality Assurance Report. This report is mandated under RCW 43.20A870 and RCW 74.13.031(5).

If you have any questions about the report, please call 360-902-7926.

Sincerely,

Robin Arnold-Williams, Secretary

The DSHS - Quality Assurance Report is on file in the Office of the Secretary of the Senate.

**MESSAGES FROM THE STATE OFFICES**

February 24, 2006

**STATE OF WASHINGTON**

Olympia, Washington 98504-5000

Mr. Thomas Hoemann  
Secretary of the Senate  
P.O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. Hoemann:

Enclosed is Columbia River Gorge Commission Audit Report. This report is mandated under RCW 43.09.310.

If you have any questions about the report, please call 360-902-0370.

Sincerely,

Brian Sonntag, State Auditor

The Columbia River Gorge Commission Audit Report is on file in the Office of the Secretary of the Senate.

**MESSAGES FROM THE STATE OFFICES**

February 24, 2006

**STATE OF WASHINGTON**

Olympia, Washington 98504-5000

Mr. Thomas Hoemann  
Secretary of the Senate  
P.O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. Hoemann:

Enclosed is Big Bend Community College Audit Report.

If you have any questions about the report, please call 360-902-0370.

Sincerely,

Brian Sonntag, State Auditor

The Big Bend Community College Audit Report is on file in the Office of the Secretary of the Senate.

**MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS**

February 28, 2006

**TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON**

Ladies and Gentlemen:

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

BERNAL BACA, appointed January 30, 2006, for the term ending January 30, 2009, as Member of the State Board of Education.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

**MOTION**

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

**MOTION**

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

**INTRODUCTION AND FIRST READING**

SJR 8224 by Senators McCaslin and Mulliken

Amending the Constitution to clarify the types of marital relationships that will be recognized as valid in Washington state.

Referred to Committee on Judiciary.

**MOTION**

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

**MOTION**

## MOTION

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

## MOTION

Senator Kohl-Welles moved adoption of the following resolution:

SENATE RESOLUTION  
8709

By Senators Kohl-Welles, Jacobsen, Thibaudeau, Esser, Finkbeiner, Schmidt, Eide, McAuliffe, Spanel and Brown

WHEREAS, RCW 28B.10.703 authorizes programs for intercollegiate athletics at our State's colleges and universities; and

WHEREAS, The University of Washington, as a member of the Pacific-10 Conference, offers intercollegiate athletic competition for student-athletes in twenty-three sports for men and women; and

WHEREAS, Each sport strives to compete at the highest level, with the goal of winning a national championship; and

WHEREAS, The University of Washington's women's volleyball team defeated the number one ranked University of Nebraska on December 17, 2005, to win its first-ever NCAA national championship; and

WHEREAS, In winning the national championship, the Huskies became the first team in the tournament's history to sweep all six matches three games to none; and

WHEREAS, Four women on the volleyball team were recognized with All-America honors, including first-team selections Sanja Tomasevic and Courtney Thompson of Kent, Washington; and

WHEREAS, Puyallup, Washington native Christal Morrison was named most outstanding player in the NCAA championship tournament; and

WHEREAS, Courtney Thompson and Candace Lee earned second team Academic All-America honors; and

WHEREAS, The aggregate grade point average for the team for the fall quarter was 3.24; and

WHEREAS, In route to its first-ever NCAA championship, the volleyball team won a school record twenty-three consecutive matches in the 2005 season; and

WHEREAS, Head Coach Jim McLaughlin was named Coach of the Year by the Pac-10 Conference;

NOW, THEREFORE, BE IT RESOLVED, That the Senate, on behalf of the citizens of the State of Washington, express to President Mark A. Emmert, Athletic Director Todd Turner, Coach Jim McLaughlin, the assistant coaches, and especially to all the members of the 2005 NCAA National Championship Volleyball team, congratulations on their momentous achievement and for bringing acclaim and recognition to our state and the university; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to University of Washington President Mark Emmert, Athletic Director Todd Turner, Coach Jim McLaughlin, and the coaching staff and members of the University of Washington's Women's Volleyball team.

Senators Kohl-Welles and Esser spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8709.

The motion by Senator Kohl-Welles carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Lucas Brown, the son of Senator Brown who was paging for the week.

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

On motion of Senator Rockefeller, the rules were suspended, the Senate, with a single vote, considered the confirmations of Gubernatorial Appointment 9156, Sherry Parker and Gubernatorial Appointment No. 9354, Addison Jacobs as members of the Board of Trustees, Clark Community College District No. 14 and the vote of the Senate was recorded as a separate vote for each appointment.

Senator Pridemore moved that Gubernatorial Appointment No. 9156, Sherry Parker and Gubernatorial Appointment No. 9354, Addison Jacobs as members of the Board of Trustees, Clark Community College District No. 14 be confirmed.

Senator Pridemore spoke in favor of the confirmations.

The President Pro Tempore declared the question before the Senate to be the confirmations of Gubernatorial Appointment No. 9156, Sherry Parker and Gubernatorial Appointment No. 9354, Addison Jacobs to the Board of Trustees, Clark Community College District No. 14.

## MOTION

On motion of Senator Schoesler, Senators Mulliken, Finkbeiner, Swecker, Pflug, Honeyford, Hewitt, Benton and Roach were excused.

## MOTION

On motion of Senator Regala, Senator Keiser was excused.

## APPOINTMENT OF SHERRY W. PARKER

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9156, Sherry W. Parker as a member of the Board of Trustees, Clark Community College District No. 14 and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 1; Excused, 7.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Thibaudeau, Weinstein and Zarelli - 41

Absent: Senator Doumit - 1

Excused: Senators Benton, Finkbeiner, Honeyford, Keiser, Mulliken, Pflug and Swecker - 7

## APPOINTMENT OF ADDISON JACOBS

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9354, Addison Jacobs as a member of the Board of Trustees, Clark Community College District No. 14 and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 1; Excused, 7.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Thibaudeau, Weinstein and Zarelli - 41

Absent: Senator Doumit - 1

Excused: Senators Benton, Finkbeiner, Honeyford, Keiser,

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Mulliken, Pflug and Swecker - 7

Gubernatorial Appointment No. 9354, Addison Jacobs, and Gubernatorial Appointment No. 9156, Sherry W. Parker having received the constitutional majority were declared confirmed as members of the Board of Trustees, Clark Community College District No. 14.

MOTION

On motion of Senator Schoesler, Senator Parlette was excused.

MOTION

On motion of Senator Regala, Senator Doumit was excused.

MOTION

On motion of Senator Rockefeller, the rules were suspended, the Senate, with a single vote, considered the confirmations of Gubernatorial Appointment 9182, Ira Sengupta and Gubernatorial Appointment No. 9389, Richard D. Zwicker as members of the Board of Trustees, Renton Technical College District No. 27 and the vote of the Senate was recorded as a separate vote for each appointment.

Senator Prentice moved that Gubernatorial Appointment No. 9182, Ira Sengupta and Gubernatorial Appointment No. 9389, Richard D. Zwicker as members of the Board of Trustees, Renton Technical College District No. 27 be confirmed.

Senator Prentice spoke in favor of the confirmations.

The President Pro Tempore declared the question before the Senate to be the confirmations of Gubernatorial Appointment No. 9182, Ira Sengupta and Gubernatorial Appointment No. 9389, Richard D. Zwicker to the Board of Trustees, Renton Technical College District No. 27.

APPOINTMENT OF IRA SENGUPTA

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9182, Ira SenGupta as a member of the Board of Trustees, Renton Technical College District No. 27 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Thibaudeau, Weinstein and Zarelli - 44

Excused: Senators Finkbeiner, Mulliken, Parlette, Pflug and Swecker - 5

APPOINTMENT OF RICHARD D. ZWICKER

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9389, Richard D. Zwicker as a member of the Board of Trustees, Renton Technical College District No. 27 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles,

McAuliffe, McCaslin, Morton, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Thibaudeau, Weinstein and Zarelli - 44

Excused: Senators Finkbeiner, Mulliken, Parlette, Pflug and Swecker - 5

Gubernatorial Appointment No. 9389, Richard D. Zwicker and Gubernatorial Appointment No. 9182, Ira SenGupta having received the constitutional majority were declared confirmed as members of the Board of Trustees, Renton Technical College District No. 27.

MOTION

On motion of Senator Rockefeller, the rules were suspended, the Senate, with a single vote, considered the confirmations of Gubernatorial Appointment 9190, Richard Stucky, Gubernatorial Appointment No. 99195, Gidget Terpstra and Gubernatorial Appointment No. 9391, Shoubee Liaw as members of the Board of Trustees, Shoreline Community College District No. 7 and the vote of the Senate was recorded as a separate vote for each appointment.

Senator Fairley moved that Gubernatorial Appointment No. 9190, Richard Stucky, Gubernatorial Appointment No. 9195, Gidget Terpstra and Gubernatorial Appointment No. 9391, Shoubee Liaw as members of the Board of Trustees, Shoreline Community College District No. 7 be confirmed.

Senator Fairley spoke in favor of the confirmations.

The President Pro Tempore declared the question before the Senate to be the confirmations of Gubernatorial Appointment 9190, Richard Stucky, Gubernatorial Appointment No. 9195, Gidget Terpstra and Gubernatorial Appointment No. 9391, Shoubee Liaw as members of the Board of Trustees, Shoreline Community College District No. 7.

APPOINTMENT OF RICHARD STUCKY

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9190, Richard Stucky as a member of the Board of Trustees, Shoreline Community College District No. 7 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Finkbeiner, Mulliken, Pflug and Swecker - 4

APPOINTMENT OF GIDGET TERPSTRA

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9195, Gidget Terpstra as a member of the Board of Trustees, Shoreline Community College District No. 7 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt,

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Schoesler, Sheldon, Shin, Spanel, Stevens, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Finkbeiner, Mulliken, Pflug and Swecker - 4

#### APPOINTMENT OF SHOUBEE LIAW

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9391, Shoubee Liaw as a member of the Board of Trustees, Shoreline Community College District No. 7 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Finkbeiner, Mulliken, Pflug and Swecker - 4

Gubernatorial Appointment No. 9391, Shoubee Liaw; Gubernatorial Appointment No. 9190, Richard Stucky; Gubernatorial Appointment No. 9195, Gidget Terpstra; and Gubernatorial Appointment No. 9391, Shoubee Liaw having received the constitutional majority were declared confirmed as members of the Board of Trustees, Shoreline Community College District No. 7.

#### MOTION

At 9:39 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:41 a.m. by President Pro Tempore.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Keiser moved that Gubernatorial Appointment No. 9051, Mickey Fearn, as a member of the Parks and Recreation Commission, be confirmed.

Senator Keiser spoke in favor of the motion.

#### APPOINTMENT OF MICKEY FEARN

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9051, Mickey Fearn as a member of the Parks and Recreation Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9051, Mickey Fearn as a member of the Parks and Recreation Commission and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel,

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Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

Gubernatorial Appointment No. 9051, Mickey Fearn, having received the constitutional majority was declared confirmed as a member of the Parks and Recreation Commission.

#### SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8418, by Senators Shin and Rasmussen

Creating an aerospace task force.

The measure was read the second time.

#### MOTION

On motion of Senator Shin, the rules were suspended, Senate Concurrent Resolution No. 8418 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senators Shin and Pflug spoke in favor of passage of the resolution.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8418.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Concurrent Resolution No. 8418 and the resolution passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

SENATE CONCURRENT RESOLUTION NO. 8418, having received the constitutional majority, was declared passed.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1020, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris and B. Sullivan)

Regarding electrical transmission.

The measure was read the second time.

#### MOTION

Senator Poulsen moved that the following committee striking amendment by the Committee on Water, Energy & Environment be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 80.50.020 and 2001 c 214 s 3 are each amended to read as follows:

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The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means any person who makes application for a site certification pursuant to the provisions of this chapter.

(2) "Application" means any request for approval of a particular site or sites filed in accordance with the procedures established pursuant to this chapter, unless the context otherwise requires.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

(4) "Site" means any proposed or approved location of an energy facility.

(5) "Certification" means a binding agreement between an applicant and the state which shall embody compliance to the siting guidelines, in effect as of the date of certification, which have been adopted pursuant to RCW 80.50.040 as now or hereafter amended as conditions to be met prior to or concurrent with the construction or operation of any energy facility.

(6) "Associated facilities" means storage, transmission, handling, or other related and supporting facilities connecting an energy plant with the existing energy supply, processing, or distribution system, including, but not limited to, communications, controls, mobilizing or maintenance equipment, instrumentation, and other types of ancillary transmission equipment, off-line storage or venting required for efficient operation or safety of the transmission system and overhead, and surface or subsurface lines of physical access for the inspection, maintenance, and safe operations of the transmission facility and new transmission lines constructed to operate at nominal voltages in excess of ~~((200,000))~~ 115,000 volts to connect a thermal power plant or alternative energy facilities to the northwest power grid(~~(- PROVIDED, That)~~), However, common carrier railroads or motor vehicles shall not be included.

(7) "Transmission facility" means any of the following together with their associated facilities:

(a) Crude or refined petroleum or liquid petroleum product transmission pipeline of the following dimensions: A pipeline larger than six inches minimum inside diameter between valves for the transmission of these products with a total length of at least fifteen miles;

(b) Natural gas, synthetic fuel gas, or ~~((liquefied))~~ liquefied petroleum gas transmission pipeline of the following dimensions: A pipeline larger than fourteen inches minimum inside diameter between valves, for the transmission of these products, with a total length of at least fifteen miles for the purpose of delivering gas to a distribution facility, except an interstate natural gas pipeline regulated by the United States federal power commission;

(c) Electrical transmission facilities in excess of 115,000 volts in national interest electric transmission corridors as designated by the United States secretary of the department of energy or the federal energy regulatory commission pursuant to section 1221 of the national energy policy act, and such rules and regulations as the secretary or the federal energy regulatory commission adopts to implement the act.

(8) "Independent consultants" means those persons who have no financial interest in the applicant's proposals and who

are retained by the council to evaluate the applicant's proposals, supporting studies, or to conduct additional studies.

(9) "Thermal power plant" means, for the purpose of certification, any electrical generating facility using any fuel, including nuclear materials, for distribution of electricity by electric utilities.

(10) "Energy facility" means an energy plant or transmission facilities: PROVIDED, That the following are excluded from the provisions of this chapter:

(a) Facilities for the extraction, conversion, transmission or storage of water, other than water specifically consumed or discharged by energy production or conversion for energy purposes; and

(b) Facilities operated by and for the armed services for military purposes or by other federal authority for the national defense.

(11) "Council" means the energy facility site evaluation council created by RCW 80.50.030.

(12) "Counsel for the environment" means an assistant attorney general or a special assistant attorney general who shall represent the public in accordance with RCW 80.50.080.

(13) "Construction" means on-site improvements, excluding exploratory work, which cost in excess of two hundred fifty thousand dollars.

(14) "Energy plant" means the following facilities together with their associated facilities:

(a) Any stationary thermal power plant with generating capacity of three hundred fifty thousand kilowatts or more, measured using maximum continuous electric generating capacity, less minimum auxiliary load, at average ambient temperature and pressure, and floating thermal power plants of one hundred thousand kilowatts or more, including associated facilities. For the purposes of this subsection, "floating thermal power plants" means a thermal power plant that is suspended on the surface of water by means of a barge, vessel, or other floating platform;

(b) Facilities which will have the capacity to receive ~~((liquefied))~~ liquefied natural gas in the equivalent of more than one hundred million standard cubic feet of natural gas per day, which has been transported over marine waters;

(c) Facilities which will have the capacity to receive more than an average of fifty thousand barrels per day of crude or refined petroleum or ~~((liquefied))~~ liquefied petroleum gas which has been or will be transported over marine waters, except that the provisions of this chapter shall not apply to storage facilities unless occasioned by such new facility construction;

(d) Any underground reservoir for receipt and storage of natural gas as defined in RCW 80.40.010 capable of delivering an average of more than one hundred million standard cubic feet of natural gas per day; and

(e) Facilities capable of processing more than twenty-five thousand barrels per day of petroleum into refined products.

(15) "Land use plan" means a comprehensive plan or land use element thereof adopted by a unit of local government pursuant to chapter~~((s))~~ 35.63, 35A.63, ~~((or))~~ 36.70, or 36.70A RCW.

(16) "Zoning ordinance" means an ordinance of a unit of local government regulating the use of land and adopted pursuant to chapter~~((s))~~ 35.63, 35A.63, ~~((or))~~ 36.70, or 36.70A RCW or Article XI of the state Constitution.

(17) "Alternative energy resource" means: (a) Wind; (b) solar energy; (c) geothermal energy; (d) landfill gas; (e) wave or

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tidal action; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(18) "Secretary" means the secretary of the United States department of energy.

**NEW SECTION. Sec. 2.** (1) Section 1221 of the national energy policy act also authorizes a state siting authority, in those instances where applicants seek a federal construction permit otherwise authorized pursuant to section 1221 of the act, to assert jurisdiction on the basis of existing state regulatory authority.

(2) Section 1221 of the national energy policy act further authorizes a state siting authority to approve the siting of facilities or consider the interstate benefits to be achieved by proposed construction or modification as provided for in section 1221(b)(1)(A)(i)-(ii) of the act or other provisions of the act, or rules and regulations implementing the act, and to convey the views and recommendations regarding the need for and impact of a transmission facility where the federal energy regulatory commission is determined to have jurisdiction.

(3) Because the types of transmission facilities subject to section 1221 of the national energy policy act are not defined, and because the legislature recognizes that the siting of electric transmission lines at or below 115,000 volts has historically been regulated by local governments in the state, the legislature finds that the 115,000 volt threshold established in this act is appropriate to satisfy the requirements of section 1221.

**NEW SECTION. Sec. 3.** A new section is added to chapter 80.50 RCW to read as follows:

(1) The council shall consult with other state agencies, utilities, local municipal governments, public interest groups, tribes, and other interested persons to convey their views to the secretary and the federal energy regulatory commission regarding appropriate limits on federal regulatory authority in the siting of electrical transmission corridors in the state of Washington.

(2) The council is designated as the state authority for purposes of siting transmission facilities under the national energy policy act of 2005 and for purposes of other such rules or regulations adopted by the secretary. The council's authority regarding transmission facilities is limited to those transmission facilities that are the subject of section 1221 of the national energy policy act and this chapter.

(3) For the construction and modification of transmission facilities that are the subject of section 1221 of the national energy policy act, the council may: (a) Approve the siting of the facilities; and (b) consider the interstate benefits expected to be achieved by the proposed construction or modification of the facilities in the state.

(4) When developing recommendations as to the disposition of an application for the construction or modification of transmission facilities under this chapter, the fuel source of the electricity carried by the transmission facilities shall not be considered.

**Sec. 4.** RCW 80.50.060 and 2001 c 214 s 2 are each amended to read as follows:

(1) The provisions of this chapter shall apply to the construction of energy facilities which includes the new construction of energy facilities and the reconstruction or enlargement of existing energy facilities where the net increase

in physical capacity or dimensions resulting from such reconstruction or enlargement meets or exceeds those capacities or dimensions set forth in RCW 80.50.020 (7) and (14). No construction of such energy facilities may be undertaken, except as otherwise provided in this chapter, after July 15, 1977, without first obtaining certification in the manner provided in this chapter.

(2) The provisions of this chapter apply to the construction, reconstruction, or enlargement of a new or existing energy facility that exclusively uses alternative energy resources and chooses to receive certification under this chapter, regardless of the generating capacity of the project.

(3) The provisions of this chapter apply to the construction of new electrical transmission facilities or the modification of existing electrical transmission facilities in a national interest electric transmission corridor designated by the secretary.

(4) The provisions of this chapter shall not apply to normal maintenance and repairs which do not increase the capacity or dimensions beyond those set forth in RCW 80.50.020 (7) and (14).

~~((4))~~ (5) Applications for certification of energy facilities made prior to July 15, 1977 shall continue to be governed by the applicable provisions of law in effect on the day immediately preceding July 15, 1977 with the exceptions of RCW 80.50.190 and 80.50.071 which shall apply to such prior applications and to site certifications prospectively from July 15, 1977.

~~((5))~~ (6) Applications for certification shall be upon forms prescribed by the council and shall be supported by such information and technical studies as the council may require.

**Sec. 5.** RCW 80.50.071 and 1977 ex.s. c 371 s 16 are each amended to read as follows:

(1) The council shall receive all applications for energy facility site certification. The following fees or charges for application processing or certification monitoring shall be paid by the applicant or certificate holder:

(a) A fee of twenty-five thousand dollars for each proposed site, to be applied toward the cost of the independent consultant study authorized in this subsection, shall accompany the application and shall be a condition precedent to any further consideration or action on the application by the council. The council shall commission its own independent consultant study to measure the consequences of the proposed energy facility on the environment for each site application. The council shall direct the consultant to study any matter which it deems essential to an adequate appraisal of the site. The full cost of the study shall be paid by the applicant: PROVIDED, That said costs exceeding a total of the twenty-five thousand dollars paid pursuant to subsection (1)(a) of this section shall be payable subject to the applicant giving prior approval to such excess amount.

(b) Each applicant shall, in addition to the costs of the independent consultant provided by subsection (1)(a) of this section, pay such reasonable costs as are actually and necessarily incurred by the council and its members as designated in RCW 80.50.030 in processing the application. Such costs shall include, but are not limited to, council member's wages, employee benefits, costs of a hearing examiner, a court reporter, additional staff salaries, wages and employee benefits, goods and services, travel expenses within the state and miscellaneous expenses, as arise directly from processing such application.

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Each applicant shall, at the time of application submission, deposit twenty thousand dollars, or such lesser amount as may be specified by council rule, to cover costs provided for by subsection (1)(b) of this section. Reasonable and necessary costs of the council directly attributable to application processing shall be charged against such deposit.

The council shall submit to each applicant a statement of such expenditures actually made during the preceding calendar quarter which shall be in sufficient detail to explain such expenditures. The applicant shall pay the state treasurer the amount of such statement to restore the total amount on deposit to the originally established level: PROVIDED, That such applicant may, at the request of the council, increase the amount of funds on deposit to cover anticipated expenses during peak periods of application processing. Any funds remaining unexpended at the conclusion of application processing shall be refunded to the applicant, or at the applicant's option, credited against required deposits of certificate holders.

(c) Each certificate holder shall pay such reasonable costs as are actually and necessarily incurred by the council for inspection and determination of compliance by the certificate holder with the terms of the certification relative to monitoring the effects of construction and operation of the facility.

Each certificate holder, within thirty days of execution of the site certification agreement, shall deposit twenty thousand dollars, or such other amount as may be specified by council rule, to cover costs provided for by subsection (1)(c) of this section. Reasonable and necessary costs of the council directly attributable to inspection and determination of compliance by the certificate holder with the terms of the certification relative to monitoring the effects of construction and operation of the facility shall be charged against such deposit.

The council shall submit to each certificate holder a statement of such expenditures actually made during the preceding calendar quarter which shall be in sufficient detail to explain such expenditures. The certificate holder shall pay the state treasurer the amount of such statement to restore the total amount on deposit to the originally established level: PROVIDED, That if the actual, reasonable, and necessary expenditures for inspection and determination of compliance in the preceding calendar quarter have exceeded the amount of funds on deposit, such excess costs shall be paid by the certificate holder.

(2) If an applicant or certificate holder fails to provide the initial deposit, or if subsequently required payments are not received within thirty days following receipt of the statement from the council, the council may (a) in the case of the applicant, suspend processing of the application until payment is received; or (b) in the case of a certificate holder, suspend the certification.

(3) All payments required of the applicant or certificate holder under this section are to be made to the state treasurer who shall make payments as instructed by the council from the funds submitted. All such funds shall be subject to state auditing procedures. Any unexpended portions thereof shall be returned to the applicant or certificate holder.

**Sec. 6.** RCW 80.50.090 and 2001 c 214 s 7 are each amended to read as follows:

(1) The council shall conduct an informational public hearing in the county of the proposed site as soon as practicable but not later than sixty days after receipt of an application for site certification(~~(--PROVIDED, That)~~). However, the place of

such public hearing shall be as close as practical to the proposed site.

(2) Subsequent to the informational public hearing, the council shall conduct a public hearing to determine whether or not the proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances. If it is determined that the proposed site does conform with existing land use plans or zoning ordinances in effect as of the date of the application, the city, county, or regional planning authority shall not thereafter change such land use plans or zoning ordinances so as to affect the proposed site.

(3) Prior to the issuance of a council recommendation to the governor under RCW 80.50.100 a public hearing, conducted as an adjudicative proceeding under chapter 34.05 RCW, the administrative procedure act, shall be held. At such public hearing any person shall be entitled to be heard in support of or in opposition to the application for certification.

(4) Additional public hearings shall be held as deemed appropriate by the council in the exercise of its functions under this chapter."

Senators Poulsen and Morton spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Water, Energy & Environment to Engrossed Substitute House Bill No. 1020.

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

#### MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "the energy facility site evaluation council; amending RCW 80.50.020, 80.50.060, 80.50.071, and 80.50.090; adding a new section to chapter 80.50 RCW; and creating a new section."

#### MOTION

On motion of Senator Schoesler, Senator Deccio was excused.

#### MOTION

On motion of Senator Poulsen, the rules were suspended, Engrossed Substitute House Bill No. 1020 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1020 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1020 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-

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Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Deccio - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1020 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2415, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Ericks, Roach, Kirby, Morrell, Green, Nixon, McDonald, Hasegawa, Conway, Simpson, Ormsby and Schual-Berke)

Compensating the victims of uninsured and underinsured motorists.

The measure was read the second time.

## MOTION

Senator Fairley moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Consumer Protection be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.22.030 and 2004 c 90 s 1 are each amended to read as follows:

(1) "Underinsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance, or use of which either no bodily injury or property damage liability bond or insurance policy applies at the time of an accident, or with respect to which the sum of the limits of liability under all bodily injury or property damage liability bonds and insurance policies applicable to a covered person after an accident is less than the applicable damages which the covered person is legally entitled to recover.

(2) No new policy or renewal of an existing policy insuring against loss resulting from liability imposed by law for bodily injury, death, or property damage, suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be issued with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles because of bodily injury, death, or property damage, resulting therefrom, except while operating or occupying a motorcycle or motor-driven cycle, and except while operating or occupying a motor vehicle owned or available for the regular use by the named insured or any family member, and which is not insured under the liability coverage of the policy. The coverage required to be offered under this chapter is not applicable to general liability policies, commonly known as umbrella policies, or other policies which apply only as excess to the insurance directly applicable to the vehicle insured.

(3) Except as to property damage, coverage required under subsection (2) of this section shall be in the same amount as the

insured's third party liability coverage unless the insured rejects all or part of the coverage as provided in subsection (4) of this section. Coverage for property damage need only be issued in conjunction with coverage for bodily injury or death. Property damage coverage required under subsection (2) of this section shall mean physical damage to the insured motor vehicle unless the policy specifically provides coverage for the contents thereof or other forms of property damage.

(4) A named insured or spouse may reject, in writing, underinsured coverage for bodily injury or death, or property damage, and the requirements of subsections (2) and (3) of this section shall not apply. If a named insured or spouse has rejected underinsured coverage, such coverage shall not be included in any supplemental or renewal policy unless a named insured or spouse subsequently requests such coverage in writing. The requirement of a written rejection under this subsection shall apply only to the original issuance of policies issued after July 24, 1983, and not to any renewal or replacement policy.

(5) The limit of liability under the policy coverage may be defined as the maximum limits of liability for all damages resulting from any one accident regardless of the number of covered persons, claims made, or vehicles or premiums shown on the policy, or premiums paid, or vehicles involved in an accident.

(6) The policy may provide that if an injured person has other similar insurance available to him under other policies, the total limits of liability of all coverages shall not exceed the higher of the applicable limits of the respective coverages.

(7)(a) The policy may provide for a deductible of not more than three hundred dollars for payment for property damage when the damage is caused by a hit-and-run driver or a phantom vehicle.

(b) In all other cases of underinsured property damage coverage, the policy may provide for a deductible of not more than one hundred dollars.

(8) For the purposes of this chapter, a "phantom vehicle" shall mean a motor vehicle which causes bodily injury, death, or property damage to an insured and has no physical contact with the insured or the vehicle which the insured is occupying at the time of the accident if:

(a) The facts of the accident can be corroborated by competent evidence other than the testimony of the insured or any person having an underinsured motorist claim resulting from the accident; and

(b) The accident has been reported to the appropriate law enforcement agency within seventy-two hours of the accident.

(9) An insurer who elects to write motorcycle or motor-driven cycle insurance in this state must provide information to prospective insureds about the coverage.

(10) If the covered person seeking underinsured motorist coverage under this section was the intended victim of the tortfeasor, the incident must be reported to the appropriate law enforcement agency and the covered person must cooperate with any related law enforcement investigation.

(11) The purpose of this section is to protect innocent victims of motorists of underinsured motor vehicles. Covered persons are entitled to coverage without regard to whether an incident was intentionally caused. A person is not entitled to coverage if the insurer can demonstrate that the covered person intended to cause the damage for which underinsured motorists' coverage is sought. As used in this section, and in the section of



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policies providing the underinsured motorist coverage described in this section, "accident" means an occurrence that is unexpected and unintended from the standpoint of the covered person.

(12) "Underinsured coverage," for the purposes of this section, means coverage for "underinsured motor vehicles," as defined in subsection (1) of this section."

Senator Fairley spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Financial Institutions, Housing & Consumer Protection to Substitute House Bill No. 2415.

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

#### MOTION

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

On page 1, line 2 of the title, after "motorists;" strike the remainder of the title and insert "and amending RCW 48.22.030."

#### MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 2415 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2415 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2415 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Deccio - 1

SUBSTITUTE HOUSE BILL NO. 2415 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2340, by Representatives Kirby, Roach, Chase, Kenney and Simpson

Regulating mortgage brokers and loan originators.

The measure was read the second time.

#### MOTION

On motion of Senator Fairley, the rules were suspended, Engrossed House Bill No. 2340 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley and Benson spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed House Bill No. 2340.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2340 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Absent: Senator Brown - 1

ENGROSSED HOUSE BILL NO. 2340, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### REMARKS BY THE PRESIDENT PRO TEMPORE

Senator Franklin: "We seem to have a special occasion in our chambers today, that special occasion has a bouquet of roses on her desk. It's the wedding anniversary of Senator Eide."

#### PERSONAL PRIVILEGE

Senator Eide: "Well, I promised my husband I wouldn't talk about him today because the last time I did on the Senate floor we had an earthquake. It was our twenty-fifth wedding anniversary so hang on. I just have to say that it is our thirtieth wedding anniversary and I'm married to best man in the world."

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2344, by House Committee on Judiciary (originally sponsored by Representatives Kessler, Buck, Kagi, Curtis, Takko, Blake and Kenney)

Authorizing three superior court judges in Clallam county. Revised for 1st Substitute: Increasing the number of superior court judicial positions in Clallam and Cowlitz counties.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 2344 was advanced to third reading,

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the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Regala, Senator Brown was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2344.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2344 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Brown - 1

SUBSTITUTE HOUSE BILL NO. 2344, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2676, by Representatives Linville, Jarrett, Simpson, Erickson, Ahern, Dunn and Uptegrove

Posting interlocal agreements in an electronic format in lieu of filing with the county auditor.

The measure was read the second time.

#### MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 2676 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2676.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2676 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel,

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Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

HOUSE BILL NO. 2676, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2829, by Representatives Wallace, Curtis, Haigh, Springer, Morrell, Hunt, Takko, Schual-Berke, Murray and Moeller

Modifying provisions concerning the regulation of driver training schools.

The measure was read the second time.

#### MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 2829 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen, Benson and Pflug spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2829.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2829 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Absent: Senator Hewitt - 1

HOUSE BILL NO. 2829, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 3156, by Representatives Darneille, Haler, Dickerson, Morrell, Pettigrew and Simpson

Creating a pilot program to assist low-income families.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that one in four families lack the financial resources to sustain their family for a period of three months at the federal poverty level.

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Low-income wage earners need tools to allow them to better control, manage, and increase their financial resources. The legislature is committed to supporting the collaboration of community-based, faith-based, governmental, job training, health care, and social service agencies to help low-income families achieve greater prosperity.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.63A RCW to read as follows:

(1) The department of community, trade, and economic development must establish a process to offer consulting services to community action agencies, established under RCW 43.63A.115, who are interested in developing pilot programs to assist low-income families accumulate assets. In implementing a pilot program, the community action agency applicant is encouraged to facilitate bringing together community partners to determine the asset building programs to initiate within the community.

(2) The department must select the pilot sites through an application process developed by the department and beginning by July 31, 2006. The department must offer consulting services to no less than four sites with at least one of the pilot sites located in eastern Washington.

(3) A community action agency as established in RCW 43.63A.115 may submit an application to be selected as a pilot site. To be considered for a pilot site, the application must demonstrate how the site will meet the following criteria. The application must:

(a) Identify the local agency that will be the lead agency for the pilot program;

(b) Describe how the lead agency will work with community partners, including local government, to implement the pilot program activities described in this section. The application must specifically identify the community partners with whom the community action agency will be collaborating and the role of the partners;

(c) Identify the areas of potential need based upon input from the community partners. Areas of potential need may include financial literacy, assistance with federal income tax preparation and the use of tax credits, the use of individual development accounts, and other asset-building strategies; and

(d) Identify the resources within the community that might support training for the implementation of the selected best practices chosen to address the needs identified by the community.

(4) The department must report to the legislature by December 1, 2007, on the progress of the implementation of the pilot programs including the application process, the status of the programs, and any implementation issues that arose in initiating the pilot programs.

(5) As used in this section, "asset" or "asset building" means investment or savings for an investment in a family home, higher education, small business, or other long-term asset that will assist low-income families to attain greater self-sufficiency.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.63A RCW to read as follows:

To the extent funding is appropriated, the department of community, trade, and economic development must establish a program to create an outreach campaign to increase the number of eligible families who claim the federal earned income tax credit. The department may work collaboratively with other state agencies, private and nonprofit agencies, local

communities, and others with expertise that might assist the department in implementing the program.

**NEW SECTION. Sec. 4.** This act expires January 1, 2008."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to House Bill No. 3156.

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

#### MOTION

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

On page 1, line 2 of the title, after "persons;" strike the remainder of the title and insert "adding new sections to chapter 43.63A RCW; creating a new section; and providing an expiration date."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 3156 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Stevens spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Mulliken, Senator Carrell was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 3156 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3156 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Carrell - 1

HOUSE BILL NO. 3156 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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HOUSE BILL NO. 2338, by Representatives Kirby, Roach, Chase, Dickerson, Ericks, Simpson, Upthegrove and Schual-Berke

to welcome Hal. Thank you very much Madam President. I'm sure many of you know Hal and may have a story or two to tell about him. He's accompanied today by his son, Steve, and his grandson Brian are with him today."

Extending the mortgage lending fraud prosecution account.

PERSONAL PRIVILEGE

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 2338 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley and Benson spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2338.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2338 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Absent: Senators Deccio and Parlette - 2

Excused: Senator Carrell - 1

HOUSE BILL NO. 2338, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Brown: "Well, some of you heard earlier today when we convened that this a special day for me. It's February 28 and it's my son's birthday and I remember very well his first birthday because I was in the House then. I mean, the other chamber, since we don't refer to it but it's also, you may not recall, that this is also the anniversary of the earthquake. Five years ago today we were in caucus. I don't remember exactly what time it was but it was in the morning and that was a very frightening experience for many of us. How thankful we are that five years later we're here once again to celebrate birthdays and anniversaries and other special events in people's lives. I also just want to say that my son is in the front of the chamber with two of his best friends and these three young men are really special to me and their families are as well because during throughout my legislative service, as you all know, our families and our friends are there for us. In essence, they almost serve with us. When we can't make it for a special event. When we travel back and forth. It's really our family and friends that also have to bear some of those sacrifices but also give that critical personal support that allows us to be here. So just wanted to say a special thank you to these boys and their families and to me they represent what makes all of our public service possible and that is our very close friends and families who are there for us. Thank you very much."

PERSONAL PRIVILEGE

STATEMENT FOR THE JOURNAL

Because I was meeting with a constituent from my district, I missed the vote on final passage for House Bill No. 2338, which extends the mortgage lending fraud prosecution account. I would like the journal to reflect that I support this measure and would have voted for the measure on final passage.

LINDA PARLETTE, 13th Legislative District

PERSONAL PRIVILEGE

Senator Benton: "I'd like to call your attention to a very special guest that we have with us today. Many of you served with this fine gentleman from Southwest Washington for many years. From 1967 to 1981 he served in the House of Representatives, representing the Seventeenth District which was a much larger district than it is today, I can assure you, took in at least two counties at the time. Now, of course, it's just a small piece of one county. Then came to the Senate in 1981 and served until 1988 here representing southwest Washington in his fine gentlemanly fashion and then left to do a stint on the Pollution Control Board. Ladies and gentlemen, Senator Hal Zimmerman is with us in the back of the chamber today. I'd like

Senator McCaslin: "It's so good to see Senator Zimmerman here. When we came in 1981, of course, I wasn't House-broken and he and Deccio, they were House-broken and they kept bragging about the House, and I said, 'If you like the House go on back. We don't need you in the Senate.' but Senator Zimmerman came over with a fellow named Fuller. Fuller used to wear a bow tie and my advise to you is never wear a bow tie. Hemstad and Fuller wore a bow tie and they were both defeated at the next election. There has to be an association. All of us without hair, of course, we get re-elected. Hal was one of the nicest people, absolutely one of the nicest people, I've ever met. We served on the Government Operations, it was either state or local then, and he was the ranking minority and he did something one meeting that I didn't like and I let him know it. The next day there was a two page letter of apology on my desk. Actually, it would of just taken one, Hal. You didn't have to apologize for two but one of the truly, truly great people. A gentleman. Really represented his district well. A Christian, great, great man. A wonderful wife and family. Thank you Senator Zimmerman for coming today."

PERSONAL PRIVILEGE

Senator Deccio: "Hal, so glad to see you today, hope you and Judy are getting along fine. Hal was always one who could always make up his mind but you never knew which side he was on. I remember one time when he said, 'This is a great bill. He didn't know what was in it but he didn't know whether he was

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going to vote for it or not. Hal, Senator McCaslin is correct, Hal was one of the nicest people that I have ever associated with in this legislature including Senator McCaslin. Anyway, Hal best luck to you and Judy and it's good to see you."

#### SECOND READING

HOUSE BILL NO. 2367, by Representatives O'Brien, Kirby, Strow, McCoy and B. Sullivan

Regarding the certification of tribal police officers.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2367 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Johnson: "Would Senator Kline yield to a question? Senator Kline, does receiving a certification from the criminal justice training center give tribal police officers any authority or jurisdiction over and above existing state and federal law whether on a reservation or not?"

Senator Kline: "Senator Johnson, no, it does not. The criminal justice training center only certifies a law enforcement officers, tribal or non-tribal, have gone through a certain regime of training. The CJTC does not have any power over the grant of authority of any law enforcement officer including tribal officers. That authority is with the agency that hires the law enforcement officers. Tribes have state and federal authority to grant authority to their officers. Non tribal jurisdictions have their own authority to grant authority to non-tribal law enforcement officers."

Senator Johnson: "Senator, so this legislation will not give the training center or the legislation itself, will not give any authority to tribal officers beyond their own tribal grant of authority where that authority which may come from deputized by non-tribal law enforcement agencies under present state law?"

Senator Kline: "Correct Senator. The training center only certifies the specific standardized training or it's equivalent has occurred. Any cross commissioning, cross-deputizing is done by the jurisdiction that already has the authority to grant power to law enforcements. Thank you."

Senator Johnson spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2367.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2367 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt,

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Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Voting nay: Senators Honeyford, Mulliken, Schoesler and Stevens - 4

Excused: Senator Carrell - 1

HOUSE BILL NO. 2367, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2454, by Representatives Williams, Lantz, Darneille, Morrell, O'Brien and Green

Revising the privilege for sexual assault advocates.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2454 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Johnson spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Weinstein, Senator Pridemore was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2454.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2454 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Pridemore - 1

HOUSE BILL NO. 2454, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Rasmussen: "Well, thank you. At noon today in the Rotunda a group of fourth graders from our school of choice in Bethel. It's the Elk Plain School of the Dance, the school of choice and there going to be singing and playing chimes and the guitar in the Rotunda. They will be here for one hour and I want

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you to know that I'm very, very proud of them and you should all listen if you get a chance to go outside because they are just absolutely magnificent. When we talk about charter schools and all the other issues you should really see what our school districts are doing. These children come in at kindergarten and they literally dance their way through the eighth grade and they're absolutely marvelous and it's a wonderful program. These are the finest kids anywhere. They do just a wonderful job so take a peak out in the rotunda and listen to the Elk Plain School of Choice as they sing and dance and play the guitar and the chimes. They are just magnificent. Thank you."

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2471, by House Committee on Housing (originally sponsored by Representatives McCune, Miloscia, Dunn, Campbell, Linville, Morrell, Strow, O'Brien, Green, Sells, Chase and Holmquist)

Creating a veteran homeownership program. Revised for 1st Substitute: Creating a veteran homeownership downpayment assistance program.

The measure was read the second time.

#### MOTION

Senator Fairley moved that the following committee amendment by the Committee on Financial Institutions, Housing & Consumer Protection be adopted.

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

"Sec. 2. RCW 41.04.007 and 2005 c 251 s 1 and 2005 c 216 s 7 are each reenacted and amended to read as follows:

"Veteran" includes every person, who at the time he or she seeks the benefits of RCW 46.16.30920, 72.36.030, 41.04.010, 73.04.090, 73.04.110, 73.08.010, 73.08.060, 73.08.070, ((or)) 73.08.080, or section 1 of this act has received an honorable discharge or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the following capacities:

(1) As a member in any branch of the armed forces of the United States, including the national guard and armed forces reserves, and has fulfilled his or her initial military service obligation;

(2) As a member of the women's air forces service pilots;

(3) As a member of the armed forces reserves, national guard, or coast guard, and has been called into federal service by a presidential select reserve call up for at least one hundred eighty cumulative days;

(4) As a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946;

(5) As a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or

(6) A United States documented merchant mariner with service aboard an oceangoing vessel operated by the department of defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation."

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Senators Fairley and Benton spoke in favor of adoption of the committee amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee amendment by the Committee on Financial Institutions, Housing & Consumer Protection to Substitute House Bill No. 2471.

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

#### MOTION

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

On page 1, line 1 of the title, after "program;" insert "reenacting and amending RCW 41.04.007;"

#### MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 2471 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2471 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2471 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 2471 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2759, by House Committee on Capital Budget (originally sponsored by Representatives Ericks, Pearson, Dunshee, Sells, Roberts and Rodne)

Authorizing the transfer of certain real property and facilities.

The measure was read the second time.

#### MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 2759 was advanced to third reading,

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the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2759.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2759 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 2759, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2897, by Representatives Condotta and Dunn

Modifying the liquor licensee's caterer's endorsement to include passenger vessels.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 2897 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2897.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2897 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

HOUSE BILL NO. 2897, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2481, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Williams, Blake, Appleton, Moeller, Hasegawa, Chase, Rodne, Eickmeyer, Conway, Roberts, Hunt and Simpson)

Insuring victims of crimes.

The measure was read the second time.

#### MOTION

Senator Fairley moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Consumer Protection be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that access to insurance can be imperiled by the response of insurers to criminal acts. Rather than allow criminals to achieve their objectives, it is the intent of the legislature that criminals, through criminal acts, should not dictate insurance underwriting decisions. It is the intent of the legislature that courts should use restitution from perpetrators of intentional property crimes to make property owners and insurers whole.

**NEW SECTION. Sec. 2.** A new section is added to chapter 48.18 RCW to read as follows:

(1) For the purposes of this section:

(a) "Arson" has the same meaning as in chapter 9A.48 RCW.

(b) "Health care facility" has the same meaning as defined in RCW 48.43.005.

(c) "Health care provider" has the same meaning as defined in RCW 48.43.005.

(d) "Insured" means a current policyholder or a person or entity that is covered under the insurance policy.

(e) A perpetrator does not have to be identified for an act of arson or malicious mischief to have occurred.

(f) "Malicious mischief" has the same meaning as in chapter 9A.48 RCW.

(g) "Underwriting action" means an insurer:

(i) Cancels or refuses to renew an insurance policy; or

(ii) Changes the terms or benefits in an insurance policy.

(2) This section applies to property insurance policies if the insured is:

(a) A health care facility;

(b) An independent health care clinic;

(c) A health care provider; or

(d) A religious organization.

(3) An insurer may not take an underwriting action on a policy described in subsection (2) of this section because an insured has made one or more insurance claims for any loss that occurred during the preceding sixty months that is the result of arson or malicious mischief. An insurer may take an underwriting action due to other factors that are not prohibited by this subsection.

(4) If an insured sustains a loss that is the result of arson or malicious mischief, the insured must file a report with the police or other law enforcement authority within thirty days of discovery of the incident, and a law enforcement authority must determine that a crime has occurred. The report must contain sufficient information to provide an insurer with reasonable

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notice that the loss was the result of arson or malicious mischief. The insured has a duty to cooperate with any law enforcement official or insurer investigation.

(5) Annually, each insurer must report underwriting actions to the commissioner if the insurer has taken an underwriting action against any insured who has filed a claim during the preceding sixty months that was the result of arson or malicious mischief. The report must include the policy number, name of the insured, location of the property, and the reason for the underwriting action."

#### MOTION

Senator Stevens moved that the following amendment by Senators Stevens and Kline to the committee striking amendment be adopted.

On page 2, line 3 of the amendment, after "provider;" strike "or"

On page 2, line 4 of the amendment, after "organization" insert ";

(e) A commercial, research, or educational organization that uses animals or plants for food, fiber production, agriculture, breeding, processing, research, or testing; or

(f) A commercial, research, or educational organization that uses, purchases, or offers for sale a product that contains animal or plant material"

Senators Stevens, Fairley and Benson spoke in favor of adoption of the amendment to the committee striking amendment.

#### MOTION

On motion of Senator Regala, Senator Jacobsen was excused.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Stevens and Kline on page 2, line 3 to the committee striking amendment to Substitute House Bill No. 2481.

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

#### MOTION

Senator Benton moved that the following amendment by Senator Benton to the committee striking amendment be adopted.

On page 2, after line 24 of the amendment, insert the following:

"**Sec. 3.** RCW 9A.56.200 and 2002 c 85 s 1 are each amended to read as follows:

(1) A person is guilty of robbery in the first degree if:

(a) In the commission of a robbery or of immediate flight therefrom, he or she:

(i) Is armed with a deadly weapon; or

(ii) Displays what appears to be a firearm or other deadly weapon; or

(iii) Inflicts bodily injury; or

(b) He or she commits a robbery within and against a financial institution as defined in RCW 7.88.010 or 35.38.060. Evidence showing that the establishment robbed was a financial institution is not required when "bank," "savings and loan,"

"trust," "payday," or "credit union" appears in the name of the establishment.

(2) Robbery in the first degree is a class A felony."

On page 2, beginning on line 25 of the amendment, strike all material through "section." on line 27, and insert the following:

On page 2, beginning on line 25 of the amendment, strike all material through "section." on line 27, and insert the following:

Senator Benton spoke in favor of adoption of the amendment to the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 2, line 24 to the committee striking amendment to Substitute House Bill No. 2481.

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Financial Institutions, Housing & Consumer Protection as amended to Substitute House Bill No. 2481.

The motion by Senator Fairley carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 1 of the title, after "crimes;" strike the remainder of the title and insert "adding a new section to chapter 48.18 RCW; and creating a new section."

On page 2, beginning on line 25 of the amendment, strike all material through "section." on line 27, and insert the following:

"On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "insuring victims of crimes and robbery in the first degree; amending RCW 9A.56.200; adding a new section to chapter 48.18 RCW; creating a new section; and prescribing penalties.""

#### MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 2481 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley and Benson spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2481 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2481 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt,



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Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Voting nay: Senators Honeyford, Mulliken and Schoesler - 3

Excused: Senator Jacobsen - 1

SUBSTITUTE HOUSE BILL NO. 2481 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:34 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:26 p.m. by President Owen.

SECOND READING

ENGROSSED HOUSE BILL NO. 2910, by Representatives Quall, Talcott, P. Sullivan, Shabro, Santos, Hunt, Anderson and Kenney

Requiring a study of environmental education. (REVISED FOR ENGROSSED: Requiring a study of environmental, natural science, wildlife, forestry, and agriculture education.)

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed House Bill No. 2910 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Schoesler, Senators Zarelli, Brandland, Swecker and Parlette were excused.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2910.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2910 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 1; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel,

Thibaudeau, Weinstein and Zarelli - 41

Voting nay: Senators Hewitt, Honeyford, Schoesler and Stevens - 4

Absent: Senator Brown - 1

Excused: Senators Brandland, Jacobsen and Swecker - 3

ENGROSSED HOUSE BILL NO. 2910, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2538, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Hudgins and McCoy)

Authorizing the department to request and superior court to grant warrants pursuant to chapter 49.17 RCW.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2538 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Parlette: "Would Senator Kohl-Welles yield to a question? The bill before us does not appear to provide guidance to the courts that will be considering whether to issue a search warrant for the purpose of a WISHA inspection under section three. What standards will such courts apply in these instances?"

Senator Kohl-Welles: "Thank you Senator. You're right, the bill does not include a statutory statement of standard that court supply these instances because of the fact the standard was established by the United States Supreme Court in 1978 in the case of *Marshall v Barlows*. In that case the Supreme Court specifically held that probable cause in the criminal sense would not be required to justify an OSHA search warrant. Instead the court ruled that it is sufficient that a particular business was chosen for an OSHA inspection on the basis of a general administrative plan for the enforcement of the act derived from neutral sources such as, for examples; dispersion of employers in various types of industries across a given area. Because the enforcement of WISHA must be at least as effective as the OSHA standard, courts deliberating on WISHA search warrant request under this bill will apply that same standard."

Senator Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2538.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2538 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland,

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Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 2538, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2776, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Dickerson, Kirby, Roach and McDonald)

Regulating home heating fuel service contracts.

The measure was read the second time.

#### MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 2776 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

#### MOTION

On motion of Senator Schoesler, Senator Hewitt was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2776.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2776 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Hewitt - 1

SUBSTITUTE HOUSE BILL NO. 2776, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 3019, by Representatives Haigh, Alexander, Dunshee and B. Sullivan

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Clarifying the role of a chief financial officer in a charter county.

The measure was read the second time.

#### MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 3019 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3019.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3019 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

HOUSE BILL NO. 3019, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 3139, by Representatives Pettigrew, Haler, Dickerson, Kagi, Dunn, Walsh, Darneille, Roberts, Hinkle, Morrell and Kenney

Clarifying kinship caregivers' consent for mental health care of minors.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 7.70.065 and 2005 c 440 s 2 are each amended to read as follows:

(1) Informed consent for health care for a patient who is not competent, as defined in RCW 11.88.010(1)(e), to consent may be obtained from a person authorized to consent on behalf of such patient.

(a) Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent, based upon a reason other than incapacity as defined in RCW 11.88.010(1)(d), shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian of the patient, if any;

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(ii) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;

(iii) The patient's spouse;

(iv) Children of the patient who are at least eighteen years of age;

(v) Parents of the patient; and

(vi) Adult brothers and sisters of the patient.

(b) If the health care provider seeking informed consent for proposed health care of the patient who is not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(i) If a person of higher priority under this section has refused to give such authorization; or

(ii) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(c) Before any person authorized to provide informed consent on behalf of a patient not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

(2) Informed consent for health care, including mental health care, for a patient who is not competent, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, may be obtained from a person authorized to consent on behalf of such a patient.

(a) Persons authorized to provide informed consent to health care, including mental health care, on behalf of a patient who is incapacitated, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian, or legal custodian authorized pursuant to Title 26 RCW, of the minor patient, if any;

(ii) A person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to chapter 13.32A or 13.34 RCW, if any;

(iii) Parents of the minor patient;

(iv) The individual, if any, to whom the minor's parent has given a signed authorization to make health care decisions for the minor patient; and

(v) A competent adult representing himself or herself to be a relative responsible for the health care of such minor patient or a competent adult who has signed and dated a declaration under penalty of perjury pursuant to RCW 9A.72.085 stating that the adult person is a relative responsible for the health care of the

minor patient. Such declaration shall be effective for up to six months from the date of the declaration.

(b) A health care provider may, but is not required to, rely on the representations or declaration of a person claiming to be a relative responsible for the care of the minor patient, under (a)(v) of this subsection, if the health care provider does not have actual notice of the falsity of any of the statements made by the person claiming to be a relative responsible for the health care of the minor patient.

(c) A health care facility or a health care provider may, in its discretion, require documentation of a person's claimed status as being a relative responsible for the health care of the minor patient. However, there is no obligation to require such documentation.

(d) The health care provider or health care facility where services are rendered shall be immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration signed under penalty of perjury pursuant to RCW 9A.72.085 stating that the adult person is a relative responsible for the health care of the minor patient under (a)(v) of this subsection.

(3) For the purposes of this section, "health care," "health care provider," and "health care facility" shall be defined as established in RCW 70.02.010.

**Sec. 2.** RCW 71.34.020 and 1998 c 296 s 8 are each amended to read as follows:

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

(1) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(2) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(3) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(4) "~~((County))~~ Designated mental health professional" means a mental health professional designated by one or more counties to perform the functions of a ~~((county))~~ designated mental health professional described in this chapter.

(5) "Department" means the department of social and health services.

(6) "Evaluation and treatment facility" means a public or private facility or unit that is certified by the department to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the department or federal agency does not require certification. No correctional institution or facility, juvenile court detention

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facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(7) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(8) "Gravely disabled minor" means a minor who, as a result of a mental disorder, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(9) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, or residential treatment facility certified by the department as an evaluation and treatment facility for minors.

(10) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(11) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(12) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder; or (b) prevent the worsening of mental conditions that endanger life or cause suffering and pain, or result in illness or infirmity or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(13) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or mental retardation alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(14) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under this chapter.

(15) "Minor" means any person under the age of eighteen years.

(16) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed services providers as identified by RCW 71.24.025((~~3~~)).

(17) "Parent" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint custody agreement; or

(b) A person or agency judicially appointed as legal guardian or custodian of the child.

(18) "Professional person in charge" or "professional person" means a physician or other mental health professional empowered by an evaluation and treatment facility with authority to make admission and discharge decisions on behalf of that facility.

(19) "Psychiatric nurse" means a registered nurse who has a bachelor's degree from an accredited college or university, and who has had, in addition, at least two years' experience in the direct treatment of mentally ill or emotionally disturbed persons, such experience gained under the supervision of a mental health professional. "Psychiatric nurse" shall also mean any other registered nurse who has three years of such experience.

(20) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(21) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(22) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(23) "Secretary" means the secretary of the department or secretary's designee.

(24) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

**Sec. 3.** RCW 71.34.500 and 2005 c 371 s 2 are each amended to read as follows:

(1) A minor thirteen years or older may admit himself or herself to an evaluation and treatment facility for inpatient mental treatment, without parental consent. The admission shall occur only if the professional person in charge of the facility concurs with the need for inpatient treatment. Parental authorization, or authorization from a person who may consent on behalf of the minor pursuant to RCW 7.70.065, is required for inpatient treatment of a minor under the age of thirteen.

(2) When, in the judgment of the professional person in charge of an evaluation and treatment facility, there is reason to believe that a minor is in need of inpatient treatment because of a mental disorder, and the facility provides the type of evaluation and treatment needed by the minor, and it is not feasible to treat the minor in any less restrictive setting or the minor's home, the minor may be admitted to an evaluation and treatment facility.

(3) Written renewal of voluntary consent must be obtained from the applicant no less than once every twelve months. The minor's need for continued inpatient treatments shall be reviewed and documented no less than every one hundred eighty days.

**Sec. 4.** RCW 71.34.530 and 1998 c 296 s 12 are each amended to read as follows:

Any minor thirteen years or older may request and receive outpatient treatment without the consent of the minor's parent. Parental authorization, or authorization from a person who may consent on behalf of the minor pursuant to RCW 7.70.065, is

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required for outpatient treatment of a minor under the age of thirteen."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to House Bill No. 3139.

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

#### MOTION

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

On page 1, line 2 of the title, after "minors;" strike the remainder of the title and insert "and amending RCW 7.70.065, 71.34.020, 71.34.500, and 71.34.530."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 3139 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Stevens spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Regala, Senators Brown and Doumit were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 3139 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3139 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Absent: Senator Benton - 1

Excused: Senator Brown - 1

HOUSE BILL NO. 3139 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3182, by House Committee on Children & Family Services (originally sponsored by Representatives Pettigrew and Santos)

Concerning tribal foster care licensing.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.15.020 and 2001 c 230 s 1, 2001 c 144 s 1, and 2001 c 137 s 3 are each reenacted and amended to read as follows:

For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:

(a) "Child day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;

(b) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(c) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

(d) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;

(e) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

(f) "Family day-care provider" means a child day-care provider who regularly provides child day care for not more

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than twelve children in the provider's home in the family living quarters;

(g) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(h) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(i) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

(j) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(k) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

(l) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated; or

(v) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where: (i) The person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care; or (ii) the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(f) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States immigration and naturalization service, or persons who have the care of such an international child in their home;

(g) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(h) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(i) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(j) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(k) Licensed physicians or lawyers;

(l) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(m) Facilities approved and certified under chapter 71A.22 RCW;

(n) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(o) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(p) An agency operated by any unit of local, state, or federal government or an agency (~~located within the boundaries of a federally recognized Indian reservation~~) licensed by ~~((the))~~ an Indian tribe pursuant to RCW 74.15.190;

(q) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

(r) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

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(3) "Department" means the state department of social and health services.

(4) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(5) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(6) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(7) "Secretary" means the secretary of social and health services.

(8) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(9) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;

(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the job training partnership act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

**Sec. 2.** RCW 74.15.190 and 1987 c 170 s 13 are each amended to read as follows:

(1)(a) The state of Washington recognizes the authority of Indian tribes within the state to license agencies, located within the boundaries of a federally recognized Indian reservation, to receive children for control, care, and maintenance outside their own homes, or to place, receive, arrange the placement of, or assist in the placement of children for foster care or adoption.

(b) The state of Washington recognizes the ability of the Indian tribes within the state to enter into agreements with the state to license agencies located on or near the federally recognized Indian reservation or, for those federally recognized tribes that do not have a reservation, then on or near the federally designated service delivery area, to receive children for control, care, and maintenance outside their own homes, or to place, receive, arrange the placement of, or assist in the placement of children for foster care.

(c) The department and state licensed child-placing agencies may place children in tribally licensed facilities if the requirements of RCW 74.15.030 (2)(b) and (3) and supporting rules are satisfied before placing the children in such facilities by the department or any state licensed child-placing agency.

(2) The department may enter into written agreements with Indian tribes within the state to define the terms under which the tribe may license agencies pursuant to subsection (1) of this

section. The agreements shall include a definition of what are the geographic boundaries of the tribe for the purposes of licensing and may include locations on or near the federally recognized Indian reservation or, for those federally recognized tribes that do not have a reservation, then on or near the federally designated service delivery area.

(3) The department and its employees are immune from civil liability for damages arising from the conduct of agencies licensed by a tribe."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 3182.

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

#### MOTION

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

On page 1, line 1 of the title, after "licensing;" strike the remainder of the title and insert "amending RCW 74.15.190; and reenacting and amending RCW 74.15.020."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 3182 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3182 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3182 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Brown - 1

SUBSTITUTE HOUSE BILL NO. 3182 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

February 27, 2006

MR. PRESIDENT:

The Speaker has signed:  
SUBSTITUTE HOUSE BILL NO. 2333,  
HOUSE BILL NO. 2364,  
SUBSTITUTE HOUSE BILL NO. 2976,  
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed.

SUBSTITUTE HOUSE BILL NO. 2333,  
HOUSE BILL NO. 2364,  
SUBSTITUTE HOUSE BILL NO. 2976,

MOTION

At 3:05 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:18 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2353, by House Committee on Appropriations (originally sponsored by Representatives Pettigrew, Shabro, Kessler, Priest, Cox, Conway, Haler, P. Sullivan, Appleton, Walsh, Kenney, Green, Armstrong, Hasegawa, Kagi, Hunt, McCoy, Buri, Fromhold, Strow, Curtis, McDermott, Williams, Hudgins, Moeller, Sells, Lantz, Kilmer, Chase, McDonald, Morrell, Murray, Linville, Santos, Springer, Wallace, Dickerson, Roberts, Cody, B. Sullivan, Simpson, Ericks, Upthegrove, Campbell, Ormsby and O'Brien)

Providing collective bargaining for family child care providers.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce, Research & Development be adopted.

Strike everything after the enacting clause and insert the following:

**"PART I - FAMILY CHILD CARE PROVIDERS**

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.56 RCW to read as follows:

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to the governor with respect to family child care providers. Solely for the purposes of collective bargaining and as expressly limited under subsections (2) and (3) of this section, the governor is the public employer of family child care

providers who, solely for the purposes of collective bargaining, are public employees. The public employer shall be represented for bargaining purposes by the governor or the governor's designee appointed under chapter 41.80 RCW.

(2) This chapter governs the collective bargaining relationship between the governor and family child care providers, except as follows:

(a) A statewide unit of all family child care providers is the only unit appropriate for purposes of collective bargaining under RCW 41.56.060.

(b) The exclusive bargaining representative of family child care providers in the unit specified in (a) of this subsection shall be the representative chosen in an election conducted pursuant to RCW 41.56.070, except that in the initial election conducted under this act, if more than one labor organization is on the ballot and none of the choices receives a majority of the votes cast, a run-off election shall be held.

(c) Notwithstanding the definition of "collective bargaining" in RCW 41.56.030(4), the scope of collective bargaining for child care providers under this section shall be limited solely to:

(i) Economic compensation, such as manner and rate of subsidy and reimbursement, including tiered reimbursements; (ii) health and welfare benefits; (iii) professional development and training; (iv) labor-management committees; (v) grievance procedures; and (vi) other economic matters. Retirement benefits shall not be subject to collective bargaining. By such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(d) The mediation and interest arbitration provisions of RCW 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

(i) With respect to commencement of negotiations between the governor and the exclusive bargaining representative of family child care providers, negotiations shall be commenced initially upon certification of an exclusive bargaining representative under (a) of this subsection and, thereafter, by February 1st of any even-numbered year;

(ii) In addition to the factors to be taken into consideration by an interest arbitration panel under RCW 41.56.465, the panel shall consider the financial ability of the state to pay for the compensation and benefit provisions of a collective bargaining agreement; and

(iii) The decision of the arbitration panel is not binding on the legislature and, if the legislature does not approve the request for funds necessary to implement the compensation and benefit provisions of the arbitrated collective bargaining agreement, is not binding on the state.

(e) Family child care providers do not have the right to strike.

(3) Family child care providers who are public employees solely for the purposes of collective bargaining under subsection (1) of this section are not, for that reason, employees of the state for any purpose. This section applies only to the governance of the collective bargaining relationship between the employer and family child care providers as provided in subsections (1) and (2) of this section.

(4) This section does not create or modify:

(a) The parents' or legal guardians' right to choose and terminate the services of any family child care provider that provides care for their child or children;



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(b) The secretary of the department of social and health services' right to adopt requirements under RCW 74.15.030, except for requirements related to grievance procedures and collective negotiations on personnel matters as specified in subsection (2)(c) of this section;

(c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130; and

(d) The legislature's right to make programmatic modifications to the delivery of state services through child care subsidy programs, including standards of eligibility of parents, legal guardians, and family child care providers participating in child care subsidy programs, and the nature of services provided. The governor shall not enter into, extend, or renew any agreement under this section that does not expressly reserve the legislative rights described in this subsection (4)(d).

(5) Upon meeting the requirements of subsection (6) of this section, the governor must submit, as a part of the proposed biennial or supplemental operating budget submitted to the legislature under RCW 43.88.030, a request for funds necessary to implement the compensation and benefit provisions of a collective bargaining agreement entered into under this section or for legislation necessary to implement such agreement.

(6) A request for funds necessary to implement the compensation and benefit provisions of a collective bargaining agreement entered into under this section shall not be submitted by the governor to the legislature unless such request has been:

(a) Submitted to the director of financial management by October 1st before the legislative session at which the request is to be considered, except that, for initial negotiations under this section, the request must be submitted by November 15, 2006; and

(b) Certified by the director of financial management as being feasible financially for the state or reflects the binding decision of an arbitration panel reached under this section.

(7) The legislature must approve or reject the submission of the request for funds as a whole. If the legislature rejects or fails to act on the submission, any such agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

(8) The governor shall periodically consult with the joint committee on employment relations established by RCW 41.80.010 regarding appropriations necessary to implement the compensation and benefit provisions of any collective bargaining agreement and, upon completion of negotiations, advise the committee on the elements of the agreement and on any legislation necessary to implement such agreement.

(9) After the expiration date of any collective bargaining agreement entered into under this section, all of the terms and conditions specified in any such agreement remain in effect until the effective date of a subsequent agreement, not to exceed one year from the expiration date stated in the agreement, except as provided in subsection (4)(d) of this section.

(10) If, after the compensation and benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(11) In enacting this section, the legislature intends to provide state action immunity under federal and state antitrust laws for the joint activities of family child care providers and

their exclusive bargaining representative to the extent such activities are authorized by this chapter.

**Sec. 2.** RCW 41.56.030 and 2004 c 3 s 6 are each amended to read as follows:

As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for nonwage-related matters is the judge or judge's designee of the respective district court or superior court.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to (i) the executive head or body of the applicable bargaining unit, or (ii) any person elected by popular vote, or (iii) any person appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (d) who is a court commissioner or a court magistrate of superior court, district court, or a department of a district court organized under chapter 3.46 RCW, or (e) who is a personal assistant to a district court judge, superior court judge, or court commissioner (~~(, or (f) excluded from a bargaining unit under RCW 41.56.201(2)(a))~~). For the purpose of (e) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Uniformed personnel" means: (a) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of ten thousand or more; (b) correctional employees who are uniformed and nonuniformed, commissioned and

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noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(5), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates; (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (d) security forces established under RCW 43.52.520; (e) fire fighters as that term is defined in RCW 41.26.030; (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other fire fighting duties; (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer.

(8) "Institution of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(9) "Home care quality authority" means the authority under chapter 74.39A RCW.

(10) "Individual provider" means an individual provider as defined in RCW 74.39A.240(4) who, solely for the purposes of collective bargaining, is a public employee as provided in RCW 74.39A.270.

(11) "Child care subsidy" means a payment from the state through a child care subsidy program established pursuant to RCW 74.12.340 or 74.08A.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor program.

(12) "Family child care provider" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) receives child care subsidies; and (c) is either licensed by the state under RCW 74.15.030 or is exempt from licensing under chapter 74.15 RCW.

**Sec. 3.** RCW 41.56.113 and 2004 c 3 s 7 are each amended to read as follows:

(1) Upon the written authorization of an individual provider or a family child care provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state as payor, but not as the employer, shall, subject to subsection (3) of this section, deduct from the payments to an individual provider or a family child care provider the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

(2) If the governor and the exclusive bargaining representative of a bargaining unit of individual providers or family child care providers enter into a collective bargaining agreement that:

(a) Includes a union security provision authorized in RCW 41.56.122, the state as payor, but not as the employer, shall, subject to subsection (3) of this section, enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining

representative, or, for nonmembers thereof, a fee equivalent to the dues; or

(b) Includes requirements for deductions of payments other than the deduction under (a) of this subsection, the state, as payor, but not as the employer, shall, subject to subsection (3) of this section, make such deductions upon written authorization of the individual provider or the family child care provider.

(3)(a) The initial additional costs to the state in making deductions from the payments to individual providers or family child care providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

(b) The allocation of ongoing additional costs to the state in making deductions from the payments to individual providers or family child care providers under this section shall be an appropriate subject of collective bargaining between the exclusive bargaining representative and the governor unless prohibited by another statute. If no collective bargaining agreement containing a provision allocating the ongoing additional cost is entered into between the exclusive bargaining representative and the governor, or if the legislature does not approve funding for the collective bargaining agreement as provided in RCW 74.39A.300 or section 1 of this act, as applicable, the ongoing additional costs to the state in making deductions from the payments to individual providers or family child care providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

(4) The governor and the exclusive bargaining representative of a bargaining unit of family child care providers may not enter into a collective bargaining agreement that contains a union security provision unless the agreement contains a process, to be administered by the exclusive bargaining representative of a bargaining unit of family child care providers, for hardship dispensation for license-exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.

**Sec. 4.** RCW 41.04.810 and 2004 c 3 s 3 are each amended to read as follows:

Individual providers, as defined in RCW 74.39A.240, and family child care providers, as defined in RCW 41.56.030, are not employees of the state or any of its political subdivisions and are specifically and entirely excluded from all provisions of this title, except as provided in RCW 74.39A.270 and section 1 of this act.

**Sec. 5.** RCW 43.01.047 and 2004 c 3 s 4 are each amended to read as follows:

RCW 43.01.040 through 43.01.044 do not apply to individual providers under RCW 74.39A.220 through 74.39A.300 or to family child care providers under section 1 of this act.

## PART II - FAMILY CHILD CARE LICENSEES

**NEW SECTION. Sec. 6.** A new section is added to chapter 74.15 RCW to read as follows:

(1) Solely for the purposes of negotiated rule making pursuant to RCW 34.05.310(2)(a) and 74.15.030, a statewide unit of all family child care licensees is appropriate. As of the effective date of this act, the exclusive representative of family child care licensees in the statewide unit shall be the representative selected as the majority representative in the

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election held under the directive of the governor to the secretary of the department of social and health services, dated September 16, 2005. If family child care licensees seek to select a different representative thereafter, the family child care licensees may request that the American arbitration association conduct an election and certify the results of the election.

(2) In enacting this section, the legislature intends to provide state action immunity under federal and state antitrust laws for the joint activities of family child care licensees and their exclusive representative to the extent such activities are authorized by this chapter.

**Sec. 7.** RCW 74.15.020 and 2001 c 230 s 1, 2001 c 144 s 1, and 2001 c 137 s 3 are each reenacted and amended to read as follows:

For the purpose of this chapter (~~(74.15 RCW)~~) and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:

(a) "Child day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;

(b) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(c) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

(d) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;

(e) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

(f) "Family day-care provider" means a child day-care provider who regularly provides child day care for not more than twelve children in the provider's home in the family living quarters;

(g) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(h) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(i) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

(j) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(k) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

(l) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated; or

(v) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where: (i) The person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care; or (ii) the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(f) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States immigration and naturalization service, or persons who have the care of such an international child in their home;

(g) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(h) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(i) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(j) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(k) Licensed physicians or lawyers;

(l) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(m) Facilities approved and certified under chapter 71A.22 RCW;

(n) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(o) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(p) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(q) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

(r) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

(3) "Department" means the state department of social and health services.

(4) "Family child care licensee" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) does not receive child care subsidies; and (c) is licensed by the state under RCW 74.15.030.

(5) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

~~((5))~~ (6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

~~((6))~~ (7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

~~((7))~~ (8) "Secretary" means the secretary of social and health services.

~~((8))~~ (9) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

~~((9))~~ (10) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;

(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the job training partnership act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

**Sec. 8.** RCW 74.15.030 and 2005 c 490 s 11 are each amended to read as follows:

The secretary shall have the power and it shall be the secretary's duty:

(1) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

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The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) The character, suitability and competence of an agency and other persons associated with an agency directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons. In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee except that in the case of a foster family home, if this expense would work a hardship on the licensee, the department shall pay the expense. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The secretary shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children, expectant mothers, and developmentally disabled persons. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose;

(c) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;

(d) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;

(e) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;

(f) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and

(g) The maintenance of records pertaining to the admission, progress, health and discharge of persons served;

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled persons. However, if a child is placed with a relative under RCW 13.34.065 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before

placement, but shall be completed as soon as possible after placement;

(4) On reports of alleged child abuse and neglect, to investigate agencies in accordance with chapter 26.44 RCW, including child day-care centers and family day-care homes, to determine whether the alleged abuse or neglect has occurred, and whether child protective services or referral to a law enforcement agency is appropriate;

(5) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(6) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(7) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(8) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with affected groups for child day-care requirements and with the children's services advisory committee for requirements for other agencies; (~~and~~)

(9) To engage in negotiated rule making pursuant to RCW 34.05.310(2)(a) with the exclusive representative of the family child care licensees selected in accordance with section 6 of this act and with other affected interests before adopting requirements that affect family child care licensees; and

(10) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons.

### PART III - GENERAL PROVISIONS

NEW SECTION. Sec. 9. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 10. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 11. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 12. This act may be known and cited as the access to quality family child care act.

NEW SECTION. Sec. 13. Sections 1 through 5 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the

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Committee on Labor, Commerce, Research & Development to Engrossed Second Substitute House Bill No. 2353.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

#### MOTION

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

On page 1, line 3 of the title, after "licensees;" strike the remainder of the title and insert "amending RCW 41.56.030, 41.56.113, 41.04.810, 43.01.047, and 74.15.030; reenacting and amending RCW 74.15.020; adding a new section to chapter 41.56 RCW; adding a new section to chapter 74.15 RCW; creating new sections; and declaring an emergency."

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Second Substitute House Bill No. 2353 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Zarelli spoke in favor of passage of the bill.

Senator Jacobsen spoke against passage of the bill.

#### MOTION

On motion of Senator Schoesler, Senators Parlette and Finkbeiner were excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2353 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2353 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 40

Voting nay: Senators Deccio, Honeyford, Jacobsen, McCaslin, Morton, Mulliken, Pflug and Schoesler - 8

Excused: Senator Finkbeiner - 1

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2353 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Franklin: "Thank you Mr. President, glad to see you back. We had a lot of wonderful recognitions here today with the one for anniversary. We've had birthdays. We have all the beautiful flowers. I was standing out in the alcove and saw a

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couple of really wonderful young, young people and I said to them, 'Oh, my goodness, how cute, you've really grown,' and found out they are the grandchildren of another birthday person here today. They refer to him as Papa and that is the birthday of Senator Swecker. Would like to recognize his birthday and wish him a happy birthday."

#### PERSONAL PRIVILEGE

Senator Swecker: "Thank you Mr. President. I just wanted to mention to folks that my two grandsons came to bring me the flower and if you want to see them you can look at my tie because they are on it. Thank you."

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2964, by House Committee on Appropriations (originally sponsored by Representatives Kagi, Talcott, Walsh, Quall, Haler, Shabro, Fromhold, Kessler, Hunt, Appleton, Lantz, Darneille, Kenney, Chase, Hasegawa, Sells, Roberts, Hunter, Moeller, McCoy, Santos, Green and Simpson)

Creating the department of early learning.

The measure was read the second time.

#### MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning, K-12 & Higher Education be adopted.

Strike everything after the enacting clause and insert the following:

#### "PART 1

#### DEPARTMENT OF EARLY LEARNING CREATED

NEW SECTION. **Sec. 101.** (1) The legislature recognizes that:

(a) Parents are their children's first and most important teachers and decision makers;

(b) Research across disciplines now demonstrates that what happens in the earliest years makes a critical difference in children's readiness to succeed in school and life;

(c) Washington's competitiveness in the global economy requires a world-class education system that starts early and supports life-long learning;

(d) Washington state currently makes substantial investments in voluntary child care and early learning services and supports, but because services are fragmented across multiple state agencies, and early learning providers lack the supports and incentives needed to improve the quality of services they provide, many parents have difficulty accessing high quality early learning services;

(e) A more cohesive and integrated voluntary early learning system would result in greater efficiencies for the state, increased partnership between the state and the private sector, improved access to high quality early learning services, and better employment and early learning outcomes for families and all children.

(2) The legislature finds that the early years of a child's life are critical to the child's healthy brain development and that the quality of caregiving during the early years can significantly

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impact the child's intellectual, social, and emotional development.

(3) The purpose of this chapter is:

(a) To establish the department of early learning;

(b) To coordinate and consolidate state activities relating to child care and early learning programs;

(c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance;

(d) To promote linkages and alignment between early learning programs and elementary schools and support the transition of children and families from prekindergarten environments to kindergarten;

(e) To promote the development of a sufficient number and variety of adequate child care and early learning facilities, both public and private; and

(f) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities.

(4) This chapter does not expand the state's authority to license or regulate activities or programs beyond those licensed or regulated under existing law.

**NEW SECTION. Sec. 102.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child day care provider who regularly provides child day care and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does

not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools or kindergartens that are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children, and do not accept custody of children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(i) Any agency having been in operation in this state ten years before June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(j) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(k) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(l) An agency that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

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

(4) "Director" means the director of the department.

(5) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to section 311(1) of this act or assessment of civil monetary penalties pursuant to section 311(3) of this act.

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

**NEW SECTION. Sec. 103.** (1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To improve parent education and support;

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(c) To carry out activities to improve the quality of early learning opportunities for young children including activities in cooperation with the private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To assist in the implementation of the private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council; and

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

**NEW SECTION. Sec. 104.** (1) The executive head and appointing authority of the department is the director. The director shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. The governor shall solicit input from all parties involved in the private-public partnership concerning this appointment. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate when the governor's nomination for the office of director shall be presented.

(2) The director may employ staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The director may delegate any power or duty vested in him or her by this chapter, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW.

**NEW SECTION. Sec. 105.** It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the director in order that the director may institute therein the flexible, alert, and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever the director's authority is not specifically limited by law, the director has complete charge and supervisory powers over the department. The director may create such administrative structures as the director considers appropriate, except as otherwise specified by law. The director may employ such assistants and personnel as necessary for the general administration of the department. This employment shall be in accordance with the state civil service law, chapter 41.06 RCW, except as otherwise provided.

**NEW SECTION. Sec. 106.** The director may appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The director may also appoint statewide committees or councils on such subject matters as are or come within the department's responsibilities. The committees or

councils shall be constituted as required by federal law or as the director may determine.

Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**NEW SECTION. Sec. 107.** In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, such rules as may become necessary to entitle the state to participate in federal funds may be adopted, unless expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements that are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department that may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department.

**NEW SECTION. Sec. 108.** (1) In addition to other duties under this chapter, the director shall actively participate in a nongovernmental private-public partnership focused on supporting government's investments in early learning and ensuring that every child in the state is prepared to succeed in school and in life. Except for licensing as required by Washington state law and to the extent permitted by federal law, the director of the department of early learning shall grant waivers from the rules of state agencies for the operation of early learning programs requested by the nongovernmental private-public partnership to allow for flexibility to pursue market-based approaches to achieving the best outcomes for children and families.

(2) In addition to other powers granted to the director, the director may:

(a) Enter into contracts on behalf of the department to carry out the purposes of this chapter;

(b) Accept gifts, grants, or other funds for the purposes of this chapter; and

(c) Adopt, in accordance with chapter 34.05 RCW, rules necessary to implement this chapter, including rules governing child day care and early learning programs under this chapter. This section does not expand the rule-making authority of the director beyond that necessary to implement and administer programs and services existing July 1, 2006, as transferred to the department of early learning under section 501 of this act. The rule-making authority does not include any authority to set mandatory curriculum or establish what must be taught in child day care centers or by family day care providers.

**NEW SECTION. Sec. 109.** Two years after the implementation of the department's early learning program, and every two years thereafter by July 1st, the department shall submit to the governor and the legislature a report measuring the effectiveness of its programs in improving early childhood education. The first report shall include program objectives and identified valid performance measures for evaluating progress toward achieving the objectives, as well as a plan for commissioning a longitudinal study comparing the kindergarten readiness of children participating in the department's programs with the readiness of other children, using nationally accepted testing and assessment methods. Such comparison shall include, but not be limited to, achievement as children of both groups progress through the K-12 system and identify year-to-



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year changes in achievement, if any, in later years of elementary, middle school, and high school education.

**NEW SECTION. Sec. 110.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the department of early learning to the director, the director's personal secretary, and any other exempt staff members provided for in section 104(2) of this act.

**Sec. 111.** RCW 43.17.010 and 2005 c 333 s 10 are each amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community, trade, and economic development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, (15) the department of financial institutions, (~~and~~) (16) the department of archaeology and historic preservation, and (17) the department of early learning, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

**Sec. 112.** RCW 43.17.020 and 2005 c 333 s 11 and 2005 c 319 s 2 are each reenacted and amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (~~and~~) (16) the director of the department of archaeology and historic preservation, and (17) the director of early learning.

Such officers, except the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

**Sec. 113.** RCW 42.17.2401 and 2005 c 424 s 17 are each amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of community, trade, and economic development, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and

wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the director of the interagency committee for outdoor recreation, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, personnel appeals board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

**PART 2**

**POLICIES AND PROGRAMS TRANSFERRED**

**Sec. 201.** RCW 41.04.385 and 2005 c 490 s 9 are each amended to read as follows:

The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs have been resolved; (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child care needs; and (4) the state of Washington should encourage the development of partnerships between state agencies, state employees, state employee labor organizations, and private employers to expand the availability of affordable quality child care. The legislature finds further that resolving employee child care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child care needs. Policies and procedures for state agencies to address employee child care needs will be the responsibility of the director of personnel in consultation with the director of the department of early learning and state employee representatives.

**Sec. 202.** RCW 74.13.085 and 1989 c 381 s 2 are each amended to read as follows:

It shall be the policy of the state of Washington to:

(1) Recognize the family as the most important social and economic unit of society and support the central role parents play in child rearing. All parents are encouraged to care for and nurture their children through the traditional methods of parental care at home. ~~((However, there has been a dramatic increase in participation of women in the workforce which has made))~~ The availability of quality, affordable child care is a ~~((critical))~~ concern for ~~((the state and its citizens. There are not enough child care services and facilities to meet the needs of))~~ working parents, the costs of care are often beyond the resources of working parents, and child care facilities are not located conveniently to work places and neighborhoods. Parents are encouraged to participate fully in the effort to improve the quality of child care services.

(2) Promote a variety of culturally and developmentally appropriate child care settings and services of the highest possible quality in accordance with the basic principle of continuity of care. These settings shall include, but not be limited to, family day care homes, mini-centers, centers and schools.

(3) Promote the growth, development and safety of children by working with community groups including providers and parents to establish standards for quality service, training of child care providers, fair and equitable monitoring, and salary levels commensurate with provider responsibilities and support services.

(4) Promote equal access to quality, affordable, socio-economically integrated child care for all children and families.

(5) Facilitate broad community and private sector involvement in the provision of quality child care services to

foster economic development and assist industry through the department of early learning.

**Sec. 203.** RCW 74.13.0902 and 1989 c 381 s 6 are each amended to read as follows:

An employer liaison position is established in the department of ~~((social and health services to be colocated at the business assistance center established under RCW 43.31.083))~~ early learning to be colocated with the department of community, trade, and economic development. The employer liaison shall, within appropriated funds:

(1) Staff and assist the child care partnership in the implementation of its duties ~~((under RCW 74.13.0901));~~

(2) Provide technical assistance to employers regarding child care services, working with and through local resource and referral organizations whenever possible. Such technical assistance shall include at a minimum:

(a) Assessing the child care needs of employees and prospective employees;

(b) Reviewing options available to employers interested in increasing access to child care for their employees;

(c) Developing techniques to permit small businesses to increase access to child care for their employees;

(d) Reviewing methods of evaluating the impact of child care activities on employers; and

(e) Preparing, collecting, and distributing current information for employers on options for increasing involvement in child care; and

(3) Provide assistance to local child care resource and referral organizations to increase their capacity to provide quality technical assistance to employers in their community.

**Sec. 204.** RCW 74.13.0903 and 2005 c 490 s 10 are each amended to read as follows:

The ~~((office of child care policy is established to operate under the authority of the department of social and health services. The duties and responsibilities of the office include, but are not limited to, the following, within appropriated funds))~~ department of early learning shall:

(1) Work in conjunction with the statewide child care resource and referral network as well as local governments, nonprofit organizations, businesses, and community child care advocates to create local child care resource and referral organizations. These organizations may carry out needs assessments, resource development, provider training, technical assistance, and parent information and training;

(2) Actively seek public and private money for distribution as grants to the statewide child care resource and referral network and to existing or potential local child care resource and referral organizations;

(3) Adopt rules regarding the application for and distribution of grants to local child care resource and referral organizations. The rules shall, at a minimum, require an applicant to submit a plan for achieving the following objectives:

(a) Provide parents with information about child care resources, including location of services and subsidies;

(b) Carry out child care provider recruitment and training programs, including training under RCW 74.25.040;

(c) Offer support services, such as parent and provider seminars, toy-lending libraries, and substitute banks;

(d) Provide information for businesses regarding child care supply and demand;

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(e) Advocate for increased public and private sector resources devoted to child care;

(f) Provide technical assistance to employers regarding employee child care services; and

(g) Serve recipients of temporary assistance for needy families and working parents with incomes at or below household incomes of one hundred seventy-five percent of the federal poverty line;

(4) Provide staff support and technical assistance to the statewide child care resource and referral network and local child care resource and referral organizations;

(5) Maintain a statewide child care licensing data bank and work with department ~~((of social and health services))~~ licensors to provide information to local child care resource and referral organizations about licensed child care providers in the state;

(6) Through the statewide child care resource and referral network and local resource and referral organizations, compile data about local child care needs and availability for future planning and development;

(7) Coordinate with the statewide child care resource and referral network and local child care resource and referral organizations for the provision of training and technical assistance to child care providers; and

(8) Collect and assemble information regarding the availability of insurance and of federal and other child care funding to assist state and local agencies, businesses, and other child care providers in offering child care services.

**Sec. 205.** RCW 74.13.098 and 2005 c 507 s 2 are each amended to read as follows:

(1) Subject to the availability of funds appropriated for this specific purpose, the ~~((division of child care and early learning in the))~~ department ~~((of social and health services))~~ shall establish a child care career and wage ladder in licensed child care centers that meet the following criteria: (a) At least ten percent of child care slots are dedicated to children whose care is subsidized by the state or any political subdivision thereof or any local government; (b) the center agrees to adopt the child care career and wage ladder, which, at a minimum, shall be at the same pay schedule as existed in the previous child care career and wage ladder pilot project; and (c) the center meets further program standards as established by rule pursuant to section 4 ~~((of this act)), chapter 507, Laws of 2005.~~

The child care career and wage ladder shall include wage increments for levels of education, years of relevant experience, levels of work responsibility, relevant early childhood education credits, and relevant requirements in the state training and registry system.

(2) The ~~((division))~~ department shall establish procedures for the allocation of funds to implement the child care career and wage ladder among child care centers meeting the criteria identified in subsection (1) of this section. In developing these procedures, the ~~((division))~~ department shall:

(a) Review past efforts or administration of the child care career and wage ladder pilot project in order to take advantage of any findings, recommendations, or administrative practices that contributed to that pilot project's success;

(b) Consult with stakeholders, including organizations representing child care teachers and providers, in developing an allocation formula that incorporates consideration of geographic and demographic distribution of child care centers adopting the child care career and wage ladder; and

(c) Develop a system for prioritizing child care centers interested in adopting the child care career and wage ladder that is based on the criteria identified in subsection (1) of this section.

(3) Notwithstanding the requirements of subsection (2) of this section, child care centers meeting the criteria in subsection (1) of this section located in urban areas of the department of social and health services region one shall receive a minimum of fifteen percent of the funds allocated through the child care career and wage ladder, and of these centers, child care centers meeting the criteria in subsection (1) of this section participating in the ~~((department of social and health services))~~ Spokane tiered reimbursement pilot project shall have first priority for child care career and wage ladder funding.

**Sec. 206.** RCW 74.13.099 and 2005 c 507 s 3 are each amended to read as follows:

Child care centers adopting the child care career and wage ladder established pursuant to RCW 74.13.098 (as recodified by this act) shall increase wages for child care workers who have earned a high school diploma or GED certificate, gain additional years of experience, or accept increasing levels of responsibility in providing child care, in accordance with the child care career and wage ladder. The adoption of a child care career and wage ladder shall not prohibit the provision of wage increases based upon merit. The department ~~((of social and health services))~~ shall pay wage increments for child care workers employed by child care centers adopting the child care career and wage ladder established pursuant to RCW 74.13.098 (as recodified by this act) who earn early childhood education credits or meet relevant requirements in the state training and registry system, in accordance with the child care career and wage ladder.

**Sec. 207.** RCW 74.15.350 and 2005 c 490 s 7 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department ~~((of social and health services))~~ shall implement the tiered-reimbursement system developed pursuant to section 6, chapter 490, Laws of 2005. Implementation of the tiered-reimbursement system shall initially consist of two pilot sites in different geographic regions of the state with demonstrated public-private partnerships, with statewide implementation to follow.

(2) In implementing the tiered-reimbursement system, consideration shall be given to child care providers who provide staff wage progression.

(3) The department shall begin implementation of the two pilot sites by March 30, 2006.

**Sec. 208.** RCW 74.12.340 and 1973 1st ex.s. c 154 s 111 are each amended to read as follows:

(1) The department is authorized to ((promulgate)) adopt rules ((and regulations)) governing the provision of day care as a part of child welfare services when the secretary determines that a need exists for such day care and that it is in the best interests of the child, the parents, or the custodial parent and in determining the need for such day care priority shall be given to geographical areas having the greatest need for such care and to members of low income groups in the population: PROVIDED, That where the family is financially able to pay part or all of the costs of such care, fees shall be imposed and paid according to the financial ability of the family.

(2) This section does not affect the authority of the department of early learning to adopt rules governing child day care and early learning programs.

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**Sec. 209.** RCW 74.08A.340 and 1997 c 58 s 321 are each amended to read as follows:

The department of social and health services shall operate the Washington WorkFirst program authorized under RCW 74.08A.200 through 74.08A.330, 43.330.145, 74.13.0903 and 74.25.040, and chapter 74.12 RCW within the following constraints:

(1) The full amount of the temporary assistance for needy families block grant, plus qualifying state expenditures as appropriated in the biennial operating budget, shall be appropriated to the department each year in the biennial appropriations act to carry out the provisions of the program authorized in RCW 74.08A.200 through 74.08A.330, 43.330.145, 74.13.0903 and 74.25.040, and chapter 74.12 RCW.

(2)(a) The department may expend funds defined in subsection (1) of this section in any manner that will effectively accomplish the outcome measures defined in RCW 74.08A.410 with the following exception: Beginning with the 2007-2009 biennium, funds that constitute the working connections child care program, child care quality programs, and child care licensing functions.

(b) Beginning in the 2007-2009 fiscal biennium, the legislature shall appropriate and the department of early learning shall expend funds defined in subsection (1) of this section that constitute the working connections child care program, child care quality programs, and child care licensing functions in a manner that is consistent with the outcome measures defined in RCW 74.08A.410.

(c) No more than fifteen percent of the amount provided in subsection (1) of this section may be spent for administrative purposes. For the purpose of this subsection, "administrative purposes" does not include expenditures for information technology and computerization needed for tracking and monitoring required by P.L. 104-193. The department shall not increase grant levels to recipients of the program authorized in RCW 74.08A.200 through 74.08A.330 and 43.330.145 and chapter 74.12 RCW.

(3) The department shall implement strategies that accomplish the outcome measures identified in RCW 74.08A.410 that are within the funding constraints in this section. Specifically, the department shall implement strategies that will cause the number of cases in the program authorized in RCW 74.08A.200 through 74.08A.330 and 43.330.145 and chapter 74.12 RCW to decrease by at least fifteen percent during the 1997-99 biennium and by at least five percent in the subsequent biennium. The department may transfer appropriation authority between funding categories within the economic services program in order to carry out the requirements of this subsection.

(4) The department shall monitor expenditures against the appropriation levels provided for in subsection (1) of this section. The department shall quarterly make a determination as to whether expenditure levels will exceed available funding and communicate its finding to the legislature. If the determination indicates that expenditures will exceed funding at the end of the fiscal year, the department shall take all necessary actions to ensure that all services provided under this chapter shall be made available only to the extent of the availability and level of appropriation made by the legislature.

**Sec. 210.** RCW 28A.215.110 and 1999 c 350 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908 (as recodified by this act).

(1) "Advisory committee" means the advisory committee under RCW 28A.215.140 (as recodified by this act).

(2) "Department" means the department of ~~((community, trade, and economic development))~~ early learning.

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

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department ~~((of community, trade, and economic development))~~ as meeting the minimum program rules adopted by the department to qualify under RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908 (as recodified by this act) and are designated as eligible for funding by the department under RCW 28A.215.160 and 28A.215.180 (as recodified by this act).

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

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

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

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

(c) Further their education and training;

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

(e) Increase their self-reliance.

**Sec. 211.** RCW 28A.215.120 and 1994 c 166 s 4 are each amended to read as follows:

The department ~~((of community, trade, and economic development))~~ shall administer a state-supported early childhood education and assistance program to assist eligible children with educational, social, health, nutritional, and cultural development to enhance their opportunity for success in the common school system. Eligible children shall be admitted to approved early childhood programs to the extent that the legislature provides funds, and additional eligible children may be admitted to the extent that grants and contributions from community sources provide sufficient funds for a program equivalent to that supported by state funds.

**Sec. 212.** RCW 43.63A.066 and 1993 c 280 s 58 are each amended to read as follows:

The department of ~~((community, trade, and economic development))~~ early learning shall have primary responsibility for providing child abuse and neglect prevention training to preschool age children participating in the federal head start

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program or the early childhood education and assistance program established under RCW 28A.215.010 through 28A.215.050, 28A.215.100 through 28A.215.200, and 28A.215.900 through 28A.215.908 (as recodified by this act).

### PART 3

#### DEPARTMENT OF EARLY LEARNING LICENSING

**NEW SECTION. Sec. 301.** It shall be the director's duty with regard to licensing:

(1) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of child care facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages and other characteristics of the children served, variations in the purposes and services offered or size or structure of the agencies to be licensed, or because of any other factor relevant thereto;

(2) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed under this chapter.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) The character, suitability, and competence of an agency and other persons associated with an agency directly responsible for the care of children. In consultation with law enforcement personnel, the director shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a provider licensed under this chapter. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The director shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children. Criminal justice agencies shall provide the director such information as they may have and that the director may require for such purpose;

(c) The number of qualified persons required to render the type of care for which an agency seeks a license;

(d) The health, safety, cleanliness, and general adequacy of the premises to provide for the comfort, care, and well-being of children;

(e) The provision of necessary care and early learning, including food, supervision, and discipline; physical, mental,

and social well-being; and educational and recreational opportunities for those served;

(f) The financial ability of an agency to comply with minimum requirements established under this chapter; and

(g) The maintenance of records pertaining to the care of children;

(3) To issue, revoke, or deny licenses to agencies pursuant to this chapter. Licenses shall specify the category of care that an agency is authorized to render and the ages and number of children to be served;

(4) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;

(5) To inspect agencies periodically to determine whether or not there is compliance with this chapter and the requirements adopted under this chapter;

(6) To review requirements adopted under this chapter at least every two years and to adopt appropriate changes after consultation with affected groups for child day care requirements; and

(7) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children.

**NEW SECTION. Sec. 302.** The chief of the Washington state patrol, through the director of fire protection, shall have the power and it shall be his or her duty:

(1) In consultation with the director and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt recognized minimum standard requirements pertaining to each category of agency established pursuant to this chapter necessary to protect all persons residing therein from fire hazards;

(2) To make or cause to be made such inspections and investigations of agencies as he or she deems necessary;

(3) To make a periodic review of requirements under section 301(5) of this act and to adopt necessary changes after consultation as required in subsection (1) of this section;

(4) To issue to applicants for licenses under this chapter who comply with the requirements, a certificate of compliance, a copy of which shall be presented to the department before a license shall be issued, except that an initial license may be issued as provided in section 309 of this act.

**NEW SECTION. Sec. 303.** Licensed child day care centers shall provide notice of pesticide use to parents or guardians of students and employees pursuant to chapter 17.21 RCW.

**NEW SECTION. Sec. 304.** A copy of the articles of incorporation of any agency or amendments to the articles of existing corporation agencies shall be sent by the secretary of state to the department at the time such articles or amendments are filed.

**NEW SECTION. Sec. 305.** All agencies subject to this chapter shall accord the department, the chief of the Washington state patrol, and the director of fire protection, or their designees, the right of entrance and the privilege of access to and inspection of records for the purpose of determining whether or not there is compliance with the provisions of this chapter and the requirements adopted under it.

**NEW SECTION. Sec. 306.** (1) It is unlawful for any agency to care for children unless the agency is licensed as provided in this chapter.

(2) A license issued under chapter 74.15 RCW before July 1, 2006, for an agency subject to this chapter after July 1, 2006,

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is valid until its next renewal, unless otherwise suspended or revoked by the department.

**NEW SECTION. Sec. 307.** Each agency shall make application for a license or renewal of license to the department on forms prescribed by the department. Upon receipt of such application, the department shall either grant or deny a license within ninety days. A license shall be granted if the agency meets the minimum requirements set forth in this chapter and the departmental requirements consistent with the chapter, except that an initial license may be issued as provided in section 309 of this act. Licenses provided for in this chapter shall be issued for a period of three years. The licensee, however, shall advise the director of any material change in circumstances which might constitute grounds for reclassification of license as to category. The license issued under this chapter is not transferable and applies only to the licensee and the location stated in the application. For licensed family day care homes having an acceptable history of child care, the license may remain in effect for two weeks after a move.

**NEW SECTION. Sec. 308.** If a licensee desires to apply for a renewal of its license, a request for a renewal shall be filed ninety days before the expiration date of the license. If the department has failed to act at the time of the expiration date of the license, the license shall continue in effect until such time as the department acts.

**NEW SECTION. Sec. 309.** The director may, at his or her discretion, issue an initial license instead of a full license, to an agency or facility for a period not to exceed six months, renewable for a period not to exceed two years, to allow such agency or facility reasonable time to become eligible for full license.

**NEW SECTION. Sec. 310.** (1) The department may issue a probationary license to a licensee who has had a license but is temporarily unable to comply with a rule or has been the subject of multiple complaints or concerns about noncompliance if:

(a) The noncompliance does not present an immediate threat to the health and well-being of the children but would be likely to do so if allowed to continue; and

(b) The licensee has a plan approved by the department to correct the area of noncompliance within the probationary period.

(2) A probationary license may be issued for up to six months, and at the discretion of the department it may be extended for an additional six months. The department shall immediately terminate the probationary license, if at any time the noncompliance for which the probationary license was issued presents an immediate threat to the health or well-being of the children.

(3) The department may, at any time, issue a probationary license for due cause that states the conditions of probation.

(4) An existing license is invalidated when a probationary license is issued.

(5) At the expiration of the probationary license, the department shall reinstate the original license for the remainder of its term, issue a new license, or revoke the original license.

(6) A right to an adjudicative proceeding shall not accrue to the licensee whose license has been placed on probationary status unless the licensee does not agree with the placement on probationary status and the department then suspends, revokes, or modifies the license.

**NEW SECTION. Sec. 311.** (1) An agency may be denied a license, or any license issued pursuant to this chapter may be suspended, revoked, modified, or not renewed by the director upon proof (a) that the agency has failed or refused to comply with the provisions of this chapter or the requirements adopted pursuant to this chapter; or (b) that the conditions required for the issuance of a license under this chapter have ceased to exist with respect to such licenses. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(3) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under this chapter or that an agency subject to licensing under this chapter is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home. Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance. Civil monetary penalties shall not exceed seventy-five dollars per violation for a family day care home and two hundred fifty dollars per violation for child day care centers. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty. The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period. The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. Chapter 43.20A RCW governs notice of a civil monetary penalty and provides the right of an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

(4)(a) In addition to or in lieu of an enforcement action being taken, the department may place a child day care center or family day care provider on nonreferral status if the center or provider has failed or refused to comply with this chapter or rules adopted under this chapter or an enforcement action has been taken. The nonreferral status may continue until the department determines that: (i) No enforcement action is appropriate; or (ii) a corrective action plan has been successfully concluded.

(b) Whenever a child day care center or family day care provider is placed on nonreferral status, the department shall provide written notification to the child day care center or family day care provider.

(5) The department shall notify appropriate public and private child care resource and referral agencies of the department's decision to: (a) Take an enforcement action against a child day care center or family day care provider; or (b) place or remove a child day care center or family day care provider on nonreferral status.

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**NEW SECTION. Sec. 312.** (1) The office of administrative hearings shall not assign nor allow an administrative law judge to preside over an adjudicative hearing regarding denial, modification, suspension, or revocation of any license to provide child care under this chapter, unless such judge has received training related to state and federal laws and department policies and procedures regarding:

- (a) Child abuse, neglect, and maltreatment;
- (b) Child protective services investigations and standards;
- (c) Licensing activities and standards;
- (d) Child development; and
- (e) Parenting skills.

(2) The office of administrative hearings shall develop and implement a training program that carries out the requirements of this section. The office of administrative hearings shall consult and coordinate with the department in developing the training program. The department may assist the office of administrative hearings in developing and providing training to administrative law judges.

**NEW SECTION. Sec. 313.** The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

**NEW SECTION. Sec. 314.** Notwithstanding the existence or pursuit of any other remedy, the director may, in the manner provided by law, upon the advice of the attorney general, who shall represent the department in the proceeding, maintain an action in the name of the state for injunction or such other relief as he or she may deem advisable against any agency subject to licensing under the provisions of this chapter or against any such agency not having a license as heretofore provided in this chapter.

**NEW SECTION. Sec. 315.** Any agency operating without a license shall be guilty of a misdemeanor. This section shall not be enforceable against an agency until sixty days after the effective date of new rules, applicable to such agency, have been adopted under this chapter.

#### PART 4

#### DEPARTMENT OF SOCIAL AND HEALTH SERVICES LICENSING REVISIONS

**Sec. 401.** RCW 74.15.020 and 2001 c 230 s 1, 2001 c 144 s 1, and 2001 c 137 s 3 are each reenacted and amended to read as follows:

For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following

irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:

~~(a) ("Child day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;~~

~~(b))~~ "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

~~((c))~~ (b) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

~~((d))~~ (c) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;

~~((e))~~ (d) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

~~((f))~~ "Family day-care provider" means a child day-care provider who regularly provides child day care for not more than twelve children in the provider's home in the family living quarters;

~~(g))~~ (e) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

~~((h))~~ (f) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

~~((i))~~ (g) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

~~((j))~~ (h) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers,

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before or during confinement, or which provides care as needed to mothers and their infants after confinement;

~~((k))~~ (i) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

~~((h))~~ (j) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated; or

(v) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where ~~((i)) The person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care; or ((ii)) the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;~~

~~((Parents on a mutually cooperative basis exchange care of one another's children;~~

~~((e))~~ A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

~~((f))~~ (e) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States immigration and naturalization service, or persons who have the care of such an international child in their home;

~~((g)) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in~~

~~which no child is enrolled on a regular basis for more than four hours per day;~~

~~((h))~~ (f) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

~~((i)) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;~~

~~((j))~~ (g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

~~((k))~~ (h) Licensed physicians or lawyers;

~~((l)) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;~~

~~((m))~~ (i) Facilities approved and certified under chapter 71A.22 RCW;

~~((n))~~ (j) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

~~((o))~~ (k) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

~~((p))~~ (l) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

~~((q))~~ (m) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

~~((r))~~ (n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

(3) "Department" means the state department of social and health services.

(4) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(5) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(6) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(7) "Secretary" means the secretary of social and health services.

(8) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(9) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;



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(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the job training partnership act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

**Sec. 402.** RCW 74.15.030 and 2005 c 490 s 11 are each amended to read as follows:

The secretary shall have the power and it shall be the secretary's duty:

(1) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) The character, suitability and competence of an agency and other persons associated with an agency directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons. In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee except that in the case of a foster family home, if this expense would work a hardship on the licensee, the department shall pay the expense. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The

secretary shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children, expectant mothers, and developmentally disabled persons. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose;

(c) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;

(d) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;

(e) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;

(f) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and

(g) The maintenance of records pertaining to the admission, progress, health and discharge of persons served;

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled persons. However, if a child is placed with a relative under RCW 13.34.065 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement;

(4) On reports of alleged child abuse and neglect, to investigate agencies in accordance with chapter 26.44 RCW, including child day-care centers and family day-care homes, to determine whether the alleged abuse or neglect has occurred, and whether child protective services or referral to a law enforcement agency is appropriate;

(5) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(6) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(7) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(8) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation ~~((with affected groups for child day-care requirements and))~~ with the children's services advisory committee for requirements for other agencies; and

(9) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons.

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**Sec. 403.** RCW 74.15.100 and 1995 c 302 s 8 are each amended to read as follows:

Each agency shall make application for a license or renewal of license to the department of social and health services on forms prescribed by the department. A licensed agency having foster-family homes under its supervision may make application for a license on behalf of any such foster-family home. Such a foster home license shall cease to be valid when the home is no longer under the supervision of that agency. Upon receipt of such application, the department shall either grant or deny a license within ninety days unless the application is for licensure as a foster-family home, in which case RCW 74.15.040 shall govern. A license shall be granted if the agency meets the minimum requirements set forth in chapter 74.15 RCW and RCW 74.13.031 and the departmental requirements consistent herewith, except that an initial license may be issued as provided in RCW 74.15.120. Licenses provided for in chapter 74.15 RCW and RCW 74.13.031 shall be issued for a period of three years. The licensee, however, shall advise the secretary of any material change in circumstances which might constitute grounds for reclassification of license as to category. The license issued under this chapter is not transferable and applies only to the licensee and the location stated in the application. For licensed foster-family (~~and family day-care~~) homes having an acceptable history of child care, the license may remain in effect for two weeks after a move, except that (~~for the foster-family home~~) this will apply only if the family remains intact.

**Sec. 404.** RCW 74.15.130 and 2005 c 473 s 6 are each amended to read as follows:

(1) An agency may be denied a license, or any license issued pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended, revoked, modified, or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or (b) that the conditions required for the issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of a foster family home license, the department's decision shall be upheld if there is reasonable cause to believe that:

(a) The applicant or licensee lacks the character, suitability, or competence to care for children placed in out-of-home care, however, no unfounded report of child abuse or neglect may be used to deny employment or a license;

(b) The applicant or licensee has failed or refused to comply with any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements adopted pursuant to such provisions; or

(c) The conditions required for issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses.

(3) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, other than a foster family home license, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(4) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with

the rules adopted under the provisions of this chapter and RCW 74.13.031 or that an agency subject to licensing under this chapter and RCW 74.13.031 is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home. Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance. Civil monetary penalties shall not exceed ~~((seventy-five dollars per violation for a family day-care home and))~~ two hundred fifty dollars per violation for group homes (~~and child day-care centers;~~) and child-placing agencies. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty. The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period. The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. Chapter 43.20A RCW governs notice of a civil monetary penalty and provides the right of an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

~~((5)(a) In addition to or in lieu of an enforcement action being taken, the department may place a child day-care center or family day-care provider on nonreferral status if the center or provider has failed or refused to comply with this chapter or rules adopted under this chapter or an enforcement action has been taken. The nonreferral status may continue until the department determines that: (i) No enforcement action is appropriate; or (ii) a corrective action plan has been successfully concluded.~~

~~(b) Whenever a child day-care center or family day-care provider is placed on nonreferral status, the department shall provide written notification to the child day-care center or family day-care provider.~~

~~(6) The department shall notify appropriate public and private child care resource and referral agencies of the department's decision to: (a) Take an enforcement action against a child day-care center or family day-care provider; or (b) place or remove a child day-care center or family day-care provider on nonreferral status.)~~

## PART 5

### TRANSFER OF POWERS, DUTIES, AND FUNCTIONS

NEW SECTION. **Sec. 501.** (1) All powers, duties, and functions of the office of the superintendent of public instruction and the department of community, trade, and economic development pertaining to the early childhood education and assistance (ECEAP) program and the early reading initiative are transferred to the department of early learning. All references to the director or the department of community, trade, and economic development in the Revised Code of Washington shall be construed to mean the director or the department of early learning when referring to the functions transferred in this section.

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(2) All powers, duties, and functions of the division of child care and early learning in the department of social and health services pertaining to the working connections child care program, child care licensing, child care quality activities, and the head start collaboration office are transferred to the department of early learning. However, eligibility staffing and eligibility payment functions for the working connections child care program shall not be transferred to the department of early learning. All references to the secretary or the department of social and health services in the Revised Code of Washington shall be construed to mean the director or the department of early learning when referring to the functions transferred in this section.

(3) Child day care services provided through the children's administration within the department of social and health services are not transferred to the department of early learning.

**NEW SECTION. Sec. 502.** All reports, documents, surveys, books, records, files, papers, or written material in the possession of the office of the superintendent of public instruction, the department of social and health services, and the department of community, trade, and economic development pertaining to the powers, functions, and duties transferred in section 501 of this act shall be delivered to the custody of the department of early learning. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the office of the superintendent of public instruction, the department of social and health services, and the department of community, trade, and economic development in carrying out the powers, functions, and duties transferred shall be made available to the department of early learning. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of early learning.

**NEW SECTION. Sec. 503.** (1) Any appropriations made to the office of the superintendent of public instruction or the department of community, trade, and economic development for carrying out the powers, functions, and duties transferred in section 501 of this act shall, on the effective date of this section, be transferred and credited to the department of early learning;

(2) Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred to the department of early learning through an interagency agreement.

**NEW SECTION. Sec. 504.** (1) All employees of the office of the superintendent of public instruction, the department of social and health services, and the department of community, trade, and economic development engaged in performing the powers, functions, and duties transferred in section 501 of this act are transferred to the jurisdiction of the department of early learning. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of early learning to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(2) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

**NEW SECTION. Sec. 505.** (1) All rules and all pending business before the office of the superintendent of public instruction, the department of social and health services, and the department of community, trade, and economic development pertaining to the powers, functions, and duties transferred in section 501 of this act shall be continued and acted upon by the department of early learning. All existing contracts and obligations shall remain in full force and shall be performed by the department of early learning.

(2) The transfer of the powers, duties, functions, and personnel of the office of the superintendent of public instruction, the department of social and health services, and the department of community, trade, and economic development shall not affect the validity of any act performed before the effective date of this section.

(3) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(4) If apportionments of budgeted funds are required because of the transfers directed by this section and sections 501 through 504 of this act, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**NEW SECTION. Sec. 506.** By November 15, 2006, the department of early learning, in collaboration with the early learning council, shall prepare a report and make recommendations to the governor and appropriate committees of the legislature detailing:

(1) Coordination and collaboration between the department and the K-12 system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12;

(2) Ongoing coordination and collaboration between the department and other programs not included in the department;

(3) Ways the department will support local communities in encouraging public-private partnerships, innovative solutions to local issues, coordination of early learning services, and improved transitions from early learning to kindergarten;

(4) The relationship between the department and the private-public partnership;

(5) Internal governance of the department, to be implemented July 1, 2007, upon termination of the early learning council; and

(6) Transition of any additional early learning programs and responsibilities, including administration of federal child care funds and subsidy eligibility and payment functions.

**NEW SECTION. Sec. 507.** By July 1, 2008, the joint legislative audit and review committee shall conduct an evaluation of the implementation and operation of the department of early learning to assess the extent to which:

(1) Services and programs that previously were administered separately have been effectively integrated;

(2) Reporting and monitoring activities have been consolidated and made more efficient;

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(3) Consolidation has resulted in administrative efficiencies within the department;

(4) The department has improved child care and early learning services;

(5) The department has been an effective partner in the private-public partnership;

(6) The costs of purchasing subsidized and unsubsidized child care services are potentially impacted;

(7) Procedures have been put in place to respect parents and legal guardians and provide them the opportunity to participate in the development of policies and program decisions affecting their children; and

(8) The degree and methods by which the agency conducts parent outreach and education.

### PART 6 MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 601.** The following sections are each recodified as new sections in the new chapter created in section 603 of this act:

RCW 74.13.097  
RCW 74.13.098  
RCW 74.13.099  
RCW 74.15.063  
RCW 74.15.310  
RCW 74.15.320  
RCW 74.15.330  
RCW 74.15.340  
RCW 74.15.350  
RCW 28A.215.100  
RCW 28A.215.110  
RCW 28A.215.120  
RCW 28A.215.130  
RCW 28A.215.140  
RCW 28A.215.150  
RCW 28A.215.160  
RCW 28A.215.170  
RCW 28A.215.180  
RCW 28A.215.190  
RCW 28A.215.200  
RCW 28A.215.900  
RCW 28A.215.904  
RCW 28A.215.906  
RCW 28A.215.908

NEW SECTION. **Sec. 602.** PART HEADINGS NOT LAW. Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 603.** Sections 101 through 109, 301 through 315, and 501 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 604.** This act takes effect July 1, 2006.

NEW SECTION. **Sec. 605.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Pflug moved that the following amendment by Senators Pflug and Kohl-Welles to the committee striking amendment be adopted.

On page 41, line 11 of the amendment, after "July 1," strike "2008" and insert "2010"

On page 41, beginning on line 21 of the amendment, strike all material through "(7)" on line 27, and insert the following:

"(4) Child care and early learning services are improved;

(5) Subsidized child care is available;

(6) Subsidized child care is affordable;

(7) The department has been an effective partner in the private-public partnership;

(8)"

Renumber the remaining subsection consecutively and correct any internal references accordingly.

Senators Pflug and Kohl-Welles spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Pflug and Kohl-Welles on page 41, line 11 to the committee striking amendment to Second Substitute House Bill No. 2964.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning, K-12 & Higher Education as amended to Second Substitute House Bill No. 2964.

The motion by Senator McAuliffe carried and the committee striking amendment as amended was adopted by voice vote.

### MOTION

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

On page 1, line 1 of the title, after "learning;" strike the remainder of the title and insert "amending RCW 43.17.010, 42.17.2401, 41.04.385, 74.13.085, 74.13.0902, 74.13.0903, 74.13.098, 74.13.099, 74.15.350, 74.12.340, 74.08A.340, 28A.215.110, 28A.215.120, 43.63A.066, 74.15.030, 74.15.100, and 74.15.130; reenacting and amending RCW 43.17.020 and 74.15.020; adding a new section to chapter 41.06 RCW; adding a new chapter to Title 43 RCW; creating new sections; recodifying RCW 74.13.097, 74.13.098, 74.13.099, 74.15.063, 74.15.310, 74.15.320, 74.15.330, 74.15.340, 74.15.350, 28A.215.100, 28A.215.110, 28A.215.120, 28A.215.130, 28A.215.140, 28A.215.150, 28A.215.160, 28A.215.170, 28A.215.180, 28A.215.190, 28A.215.200, 28A.215.900, 28A.215.904, 28A.215.906, and 28A.215.908; prescribing penalties; and providing an effective date."

### MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 2964 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Pflug, Kohl-Welles and Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2964 as amended by the Senate.

ROLL CALL

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The Secretary called the roll on the final passage of Second Substitute House Bill No. 2964 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Voting nay: Senators Benson and Morton - 2

SECOND SUBSTITUTE HOUSE BILL NO. 2964 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2407, by House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Lovick, Strow, O'Brien, Erickson, Dunshee, Linville, Grant, Lantz, Kessler, Williams, Blake, Morrell, Rodne, Hunt, Conway, P. Sullivan, Springer, Takko, Kilmer, Fromhold, B. Sullivan, Hunter, Simpson, Green, Miloscia, Sells, Upthegrove, Campbell and Ormsby)

Revising provisions relating to electronic monitoring of sex offenders.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.713 and 2001 2nd sp.s. c 12 s 304 are each amended to read as follows:

(1) When an offender is sentenced under RCW 9.94A.712, the department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions of the offender's community custody based upon the risk to community safety. In addition, the department shall make a recommendation with regard to, and the board may require the offender to participate in, rehabilitative programs, or otherwise perform affirmative conduct, and obey all laws. The department may recommend and, if recommended, the board may impose electronic monitoring as a condition of community custody for the offender. Within the resources made available by the department for this purpose, the department shall carry out any monitoring imposed under this section using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning technology. The board must consider and may impose department-recommended conditions.

(2) The department may not recommend and the board may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions. The board shall notify the offender in writing of any such conditions or modifications.

(3) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

(4) If an offender violates conditions imposed by the court, the department, or the board during community custody, the board or the department may transfer the offender to a more restrictive confinement status and impose other available sanctions as provided in RCW 9.95.435.

(5) By the close of the next business day, after receiving notice of a condition imposed by the board or the department, an offender may request an administrative hearing under rules adopted by the board. The condition shall remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

- (a) The crime of conviction;
- (b) The offender's risk of reoffending; or
- (c) The safety of the community.

(6) An offender released by the board under RCW 9.95.420 shall be subject to the supervision of the department until the expiration of the maximum term of the sentence. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board shall be subject to the provisions of RCW 9.95.425 through 9.95.440.

(7) If the department finds that an emergency exists requiring the immediate imposition of conditions of release in addition to those set by the board under RCW 9.95.420 and subsection (1) of this section in order to prevent the offender from committing a crime, the department may impose additional conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board under subsection (1) of this section within seven working days.

**Sec. 2.** RCW 9.94A.715 and 2003 c 379 s 6 are each amended to read as follows:

(1) When a court sentences a person to the custody of the department for a sex offense not sentenced under RCW 9.94A.712, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, the court shall in addition to the other terms of the sentence, sentence the offender to community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer. The community custody shall begin: (a) Upon completion of the term of confinement; (b) at such time as the offender is transferred to community custody in lieu of earned release in accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to offenders sentenced under RCW 9.94A.660, upon failure to complete or administrative termination from the special drug offender sentencing

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alternative program. Except as provided in RCW 9.94A.501, the department shall supervise any sentence of community custody imposed under this section.

(2)(a) Unless a condition is waived by the court, the conditions of community custody shall include those provided for in RCW 9.94A.700(4). The conditions may also include those provided for in RCW 9.94A.700(5). The court may also order the offender to participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community, and the department shall enforce such conditions pursuant to subsection (6) of this section.

(b) As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department under RCW 9.94A.720. The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of the offender's community custody based upon the risk to community safety. In addition, the department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws. The department may impose electronic monitoring as a condition of community custody for an offender sentenced to a term of community custody under this section pursuant to a conviction for a sex offense. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring imposed under this section using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

(c) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court imposed conditions. The department shall notify the offender in writing of any such conditions or modifications. In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

(3) If an offender violates conditions imposed by the court or the department pursuant to this section during community custody, the department may transfer the offender to a more restrictive confinement status and impose other available sanctions as provided in RCW 9.94A.737 and 9.94A.740.

(4) Except for terms of community custody under RCW 9.94A.670, the department shall discharge the offender from community custody on a date determined by the department, which the department may modify, based on risk and performance of the offender, within the range or at the end of the period of earned release, whichever is later.

(5) At any time prior to the completion or termination of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a

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violation of the sentence for the purposes of RCW 9.94A.631 and may be punishable as contempt of court as provided for in RCW 7.21.040. If the court extends a condition beyond the expiration of the term of community custody, the department is not responsible for supervision of the offender's compliance with the condition.

(6) Within the funds available for community custody, the department shall determine conditions and duration of community custody on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection.

(7) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to any of the following: (a) The crime of conviction; (b) the offender's risk of reoffending; or (c) the safety of the community.

NEW SECTION. Sec. 3. A new section is added to chapter 4.24 RCW to read as follows:

Local governments, their subdivisions and employees, the department of corrections and its employees, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving offenders who are placed on electronic monitoring, unless it is shown that an employee acted with gross negligence or bad faith."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 2407.

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

#### MOTION

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

On page 1, line 1 of the title, after "offenders;" strike the remainder of the title and insert "amending RCW 9.94A.713 and 9.94A.715; and adding a new section to chapter 4.24 RCW."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2407 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2407 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2407 as amended by the Senate and

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the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

At 4:58 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

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The Senate was called to order at 7:07 p.m. by President Owen.

SUBSTITUTE HOUSE BILL NO. 2407 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

POINT OF ORDER

MESSAGE FROM THE HOUSE

February 28, 2006

Senator Hargrove: "Subject to Rule 9, I would suggest the Senate chamber and facilities be used for legislative business and not for a floral arrangement. My ears are itching, my eyes are closing. My nose, I can't breath."

MR. PRESIDENT:

The House has passed the following bill {s}:  
 SENATE BILL NO. 6531,  
 SENATE BILL NO. 6545,  
 SUBSTITUTE SENATE BILL NO. 6572,  
 and the same are herewith transmitted.

PERSONAL PRIVILEGE

RICHARD NAFZIGER, Chief Clerk

Senator Eide: "I think we're going to accommodate him. I believe it's the lilies. When we came from caucus several of us had bouquets on our desk and we're going to remove the bouquets that have the lilies in them. Thank you."

MESSAGE FROM THE HOUSE

February 28, 2006

PARLIAMENTARY INQUIRY

Senator Esser: "Thank you Mr. President. Do you have a phone number for Capital Florist?"

MR. PRESIDENT:

The House has passed the following bill {s}:  
 SUBSTITUTE SENATE BILL NO. 5042,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5204,  
 SUBSTITUTE SENATE BILL NO. 6161,  
 SENATE BILL NO. 6371,  
 SENATE BILL NO. 6416,  
 SENATE BILL NO. 6463,  
 SENATE BILL NO. 6504,  
 SENATE BILL NO. 6539,  
 SUBSTITUTE SENATE BILL NO. 6570,  
 SUBSTITUTE SENATE BILL NO. 6670,  
 SENATE BILL NO. 6816,  
 ENGROSSED SENATE JOINT MEMORIAL NO. 8019,  
 and the same are herewith transmitted.

MESSAGE FROM THE GOVERNOR  
 GUBERNATORIAL APPOINTMENTS

RICHARD NAFZIGER, Chief Clerk

February 28, 2006

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
 Ladies and Gentlemen:

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

ERIC LIU, appointed January 20, 2006, for the term ending January 30, 2007, as Member of the State Board of Education.

MESSAGE FROM THE HOUSE

February 28, 2006

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

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

MOTION

MR. PRESIDENT:

The House has passed the following bill {s}:  
 SECOND SUBSTITUTE SENATE BILL NO. 5717,  
 SUBSTITUTE SENATE BILL NO. 5838,  
 SUBSTITUTE SENATE BILL NO. 6168,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6189,  
 SENATE BILL NO. 6231,  
 ENGROSSED SENATE BILL NO. 6376,  
 SUBSTITUTE SENATE BILL NO. 6382,  
 SUBSTITUTE SENATE BILL NO. 6401,  
 SUBSTITUTE SENATE BILL NO. 6441,

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

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SUBSTITUTE SENATE BILL NO. 6473,  
SUBSTITUTE SENATE BILL NO. 6571,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6580,  
and the same are herewith transmitted.

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SUBSTITUTE HOUSE BILL NO. 2715, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

RICHARD NAFZIGER, Chief Clerk

SECOND READING

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2715, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Ericks, Anderson, Morris, Haler, Crouse, Hankins, Nixon, Sump, P. Sullivan, Hudgins, Kilmer, Takko, Green, Sells, Clibborn, Simpson, Springer, Roberts, Ormsby, Morrell and McIntire)

SECOND SUBSTITUTE HOUSE BILL NO. 2789, by House Committee on Appropriations (originally sponsored by Representatives Quall, Conway, Wood, Hasegawa, Haigh, Ormsby, Murray, Chase, Kessler, Morrell, Green, Roberts, McCoy, Moeller, Simpson, Sells, Lantz, McDermott, Ericks, Hankins, Kagi and Hudgins)

Expanding apprenticeship opportunities for high school graduates.

Regarding the state interoperability executive committee.

The measure was read the second time.

The measure was read the second time.

MOTION

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning, K-12 & Higher Education be adopted.

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 2715 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Strike everything after the enacting clause and insert the following:

Senators Kastama, Roach and Brandland spoke in favor of passage of the bill.

"NEW SECTION. Sec. 1 A new section is added to chapter 49.04 RCW to read as follows:

MOTION

On motion of Senator Schoesler, Senators Benton, McCaslin, Oke, Deccio and Pflug were excused.

(1) The legislature finds that it is in the public interest of the state to encourage and facilitate the formation of cooperative relationships between business and labor and educational institutions that provide for the development and expansion of programs of educational skills training consistent with employment needs.

MOTION

On motion of Senator Regala, Senator Hargrove was excused.

(2) Further, the legislature finds that it is in the state's interest to make students aware of the educational training programs and career employment opportunities.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2715.

(3) Therefore, the following shall be implemented to expand opportunities for secondary school students to prepare for technical careers and related apprenticeships:

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2715 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 3; Excused, 4.

(a) Centers of excellence and other colleges with a high density of apprenticeship programs shall act as brokers of relevant information and resources as provided for in section 2 of this act;

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 42

(b) An educational outreach program coordinated by the Washington state apprenticeship and training council as provided for in section 3 of this act; and

Absent: Senators Delvin, Doumit and Zarelli - 3

Excused: Senators Benton, Hargrove, McCaslin and Pflug - 4

(c) The development of direct-entry programs for graduating secondary students, approved and overseen by the Washington state apprenticeship and training council as provided for in section 4 of this act.

NEW SECTION. Sec. 2 A new section is added to chapter 49.04 RCW to read as follows:

(1) Centers of excellence, as designated by the state board for community and technical colleges, and other colleges identified by the state board for community and technical colleges in consultation with the Washington state apprenticeship and training council as having a high density of apprenticeship programs, shall act as a broker of relevant information and resources on available grants, scholarship opportunities, job openings, and industries of growth.

(2) The Washington state apprenticeship and training council, in conjunction with the office of the superintendent of



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public instruction, shall aid all local school districts in meeting the goals of this act.

**NEW SECTION. Sec. 3** A new section is added to chapter 49.04 RCW to read as follows:

(1) Within existing resources, the Washington state apprenticeship and training council, in conjunction with individual state-approved apprenticeship training programs and the office of the superintendent of public instruction, shall lead and coordinate an educational outreach program for middle and secondary school students, parents, and educators about apprenticeship and career opportunities and communicate work force projections to the office of the superintendent of public instruction for distribution to all local school districts.

(2) Appropriate activities of the Washington state apprenticeship and training council under this section include assistance with curriculum development, the establishment of practical learning opportunities for students, and seeking the advice and participation of industry and labor interests.

**NEW SECTION. Sec. 4** A new section is added to chapter 49.04 RCW to read as follows:

(1) Within existing resources, the Washington state apprenticeship and training council shall approve and oversee direct-entry programs for graduating secondary students into building and construction-related apprenticeships by:

(a) Assisting individual school districts in using and leveraging existing resources; and

(b) Developing guidelines, including guidelines that ensure that graduating secondary school students will receive appropriate education and training and will have the opportunity to transition to local apprenticeship programs. The guidelines must be developed with input from apprenticeship coordinators, the office of the superintendent of public instruction, the state board for community and technical colleges, the work force training and education coordinating board, and other interested stakeholders for direct-entry programs.

(2) The Washington state apprenticeship and training council shall award up to ten incentive grants for the 2006-07 school year, based on guidelines established under subsection (1)(b) of this section, to school districts statewide solely for personnel to negotiate and implement agreements with local apprenticeship programs based upon state apprenticeship use requirements, as described in RCW 39.04.320, to accept graduating secondary school students with appropriate training into apprenticeship programs. The council shall make every effort to award the grants evenly across the state.

(3) Beginning December 1, 2006, the Washington state apprenticeship and training council shall provide an annual report to the governor and the education and commerce and labor committees of the legislature. The report shall include:

(a) The guidelines established under subsection (1)(b) of this section;

(b) The names of the school districts receiving incentive grants under subsection (2) of this section;

(c) The results of negotiations between school districts receiving incentive grants and local apprenticeship programs;

(d) A list of apprenticeship programs that have agreed, pursuant to negotiated agreements, to accept qualified graduating secondary students; and

(e) The number of qualified graduating secondary students entering into apprenticeship programs each year through direct-entry programs.

**NEW SECTION. Sec. 5** A new section is added to chapter 28C.04 RCW to read as follows:

(1) Subject to funding provided for the purposes of this section, the superintendent of public instruction and the state board for community and technical colleges, in consultation with the Washington state apprenticeship and training council, shall allocate grants on a competitive basis to up to four pilot projects to expand enrollment of secondary school students in career and technical programs that enable them to enter apprenticeships, particularly building and construction apprenticeships, upon graduation. The purpose of the pilot projects is to develop new collaborations among K-12 education and work force education providers and try new approaches to delivering instruction and career and technical education to secondary school students.

(a) Two of the pilot projects shall involve skill centers or high schools working collaboratively with local or regional apprenticeship programs and the Washington state apprenticeship and training council to design and offer the programs.

(b) Two of the pilot projects shall involve community or technical colleges working collaboratively with local high schools, local or regional apprenticeship programs, and the Washington state apprenticeship and training council to design and offer the programs.

(c) At least one of the pilot projects is encouraged to involve small or rural high schools.

(d) In reviewing the grant applications, the superintendent of public instruction and the Washington state apprenticeship and training council shall convene a review committee representing the state board for community and technical colleges, the work force training and education coordinating board, business and labor interests with ties to apprenticeship fields, apprenticeship program coordinators, and career and technical educators in the public schools. Grant award recipients must be notified by June 1, 2006.

(e) Pilot projects must be ready to enroll students for the 2006-07 school year.

(f) The pilot projects shall operate for a three-year period.

(2) In addition to enrolling students in career and technical programs that enable them to enter apprenticeships upon graduation, the pilot projects under this section may engage in but are not limited to the following activities:

(a) Developing or modifying curriculum to align with apprenticeship entry requirements and skill expectations or to adjust curriculum to the secondary level;

(b) Negotiating agreements for nonmonetary consideration or for no consideration to use local or regional apprenticeship program training facilities to offer programs;

(c) Negotiating agreements with local or regional apprenticeship programs, community or technical colleges, or other contractors to provide specialized instruction within the program;

(d) Based on guidelines and assistance from the Washington state apprenticeship and training council, negotiating direct-entry agreements with local or regional apprenticeship programs to accept pilot project graduates into the programs;

(e) In conjunction with educational outreach efforts by the Washington state apprenticeship and training council and local or regional apprenticeship programs, conducting marketing, advertising, and communication about the pilot project to area teachers, counselors, students, and parents;

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(f) Providing tutoring and other academic support services to ensure students have the necessary academic skills for the program and for high school graduation; and

(g) Offering other support services such as counseling, community service referral, and assistance for low-income students such as tools, supplies, books, or transportation to nonschool facilities.

(3) To the maximum extent possible, students enrolled in a pilot project shall receive both high school and college credit for their courses through tech-prep agreements or the high school program created in RCW 28A.600.300 through 28A.600.400 (running start).

(4) Beginning December 1, 2007, recipients of grants under this section shall report annually to the Washington state apprenticeship and training council: The number of students participating in programs developed under this section, the number of qualified graduating secondary students entering into apprenticeship programs each year, the apprenticeship programs into which the students entered, and lessons learned by the grant recipients that might lead to improvements in the development and implementation of additional preapprenticeship programs. The Washington state apprenticeship and training council shall provide an annual summary of the reports to the governor and the education and commerce and labor committees of the legislature.

(5) Funding for a student enrolled in a community or technical college pilot project under this section shall be provided under RCW 28A.320.015 and 28A.320.035 and rules adopted for the provision of instruction under contract.

(6) Using existing resources the superintendent of public instruction shall convene a work group to identify barriers and opportunities for further expansion of secondary career and technical programs that enable graduates to enter apprenticeships, including building and construction-related apprenticeships, beyond the pilot project stage. The work group shall include representatives from the Washington state apprenticeship and training council, local or regional apprenticeship programs, the work force training and education coordinating board, community and technical colleges, high schools, and skill centers. The superintendent shall submit a report with recommendations to the governor and the education and commerce and labor committees of the legislature by December 1, 2006. Issues to be considered by the work group may include:

(a) Expanding participation and opportunities in running start for career and technical students, particularly in apprenticeship preparation programs, including the role of using parent involvement in guidance and counseling for students to expand participation;

(b) Addressing highly qualified teacher requirements under the federal no child left behind act;

(c) Cross-crediting of career and technical and core academic courses;

(d) The funding model for skill centers;

(e) Creating benchmarks to measure outcomes from the pilot projects and from possible expansion of the projects; and

(f) The impact of current student assessment and achievement requirements on student participation in apprenticeship preparation programs and opportunities for developing alternative assessment and achievement requirements.

(7) This section expires August 31, 2009.

**Sec. 6** RCW 28B.15.067 and 2003 c 232 s 4 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

(2) Beginning with the 2003-04 academic year and ending with the 2008-09 academic year, reductions or increases in full-time tuition fees for resident undergraduates shall be as provided in the omnibus appropriations act.

(3) Beginning with the 2003-04 academic year and ending with the 2008-09 academic year, the governing boards of the state universities, the regional universities, The Evergreen State College, and the state board for community and technical colleges may reduce or increase full-time tuition fees for all students other than resident undergraduates, including summer school students and students in other self-supporting degree programs. Percentage increases in full-time tuition fees may exceed the fiscal growth factor. Reductions or increases may be made for all or portions of an institution's programs, campuses, courses, or students.

(4) Academic year tuition for full-time students at the state's institutions of higher education beginning with 2009-10, other than summer term, shall be as charged during the 2008-09 academic year unless different rates are adopted by the legislature.

(5) The tuition fees established under this chapter shall not apply to high school students enrolling in participating institutions of higher education under RCW 28A.600.300 through 28A.600.400.

(6) The tuition fees established under this chapter shall not apply to eligible students enrolling in a community or technical college under section 5 of this act.

(7) For the academic years 2003-04 through 2008-09, the University of Washington shall use an amount equivalent to ten percent of all revenues received as a result of law school tuition increases beginning in academic year 2000-01 through academic year 2008-09 to assist needy low and middle income resident law students.

~~((7))~~ (8) For the academic years 2003-04 through 2008-09, institutions of higher education shall use an amount equivalent to ten percent of all revenues received as a result of graduate academic school tuition increases beginning in academic year 2003-04 through academic year 2008-09 to assist needy low and middle-income resident graduate academic students.

NEW SECTION. **Sec. 7** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 1, 2006."

Senators McAuliffe and Schmidt spoke in favor of adoption of the committee striking amendment.

MOTION

On motion of Senator Schoesler, Senators Delvin and Zarelli were excused.

MOTION

On motion of Senator Regala, Senator Doumit was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the

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Committee on Early Learning, K-12 & Higher Education to Second Substitute House Bill No. 2789.

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

#### MOTION

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

On page 1, line 2 of the title, after "apprenticeships;" strike the remainder of the title and insert "amending RCW 28B.15.067; adding new sections to chapter 49.04 RCW; adding a new section to chapter 28C.04 RCW; providing an effective date; providing an expiration date; and declaring an emergency."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 2789 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2789 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2789 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 2; Absent, 0; Excused, 5.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 42

Voting nay: Senators Honeyford and Morton - 2

Excused: Senators Benton, Delvin, Hargrove, McCaslin and Pflug - 5

SECOND SUBSTITUTE HOUSE BILL NO. 2789 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3098, by House Committee on Capital Budget (originally sponsored by Representatives McDermott, Talcott and Quall)

Transferring duties of the reconstituted state board of education.

The measure was read the second time.

#### MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning, K-12 & Higher Education be adopted.

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Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** In 2005, the legislature reconstituted the state board of education to refocus its purpose; abolished the academic achievement and accountability commission; and assigned policy and rule-making authority for educator preparation and certification to the professional educator standards board. The purpose of this act is to address the remaining statutory responsibilities of the state board of education held before 2005. The legislature finds that some duties should be retained with the reconstituted board; many duties should be transferred to other agencies or organizations, primarily but not exclusively to the superintendent of public instruction; and some duties should be repealed. This act also corrects statutes to implement fully the transfer of responsibilities authorized in 2005.

#### PART 1

#### NEW STATE BOARD OF EDUCATION

**NEW SECTION. Sec. 101.** The legislature encourages the members of the new state board of education to review the transfer of duties from the state board to other entities made in this act and if any of the duties that were transferred away from the state board are necessary for the board to accomplish the purpose set out in this act then the state board shall come back to the legislature to request those necessary duties to be returned to the state board of education. The state board of education is encouraged to make such a request by January 15, 2007.

**Sec. 102.** RCW 28A.305.130 and 2005 c 497 s 104 are each amended to read as follows:

The purpose of the state board of education is to ~~((adopt statewide policies that promote achievement of the goals of RCW 28A.150.210; implement a standards-based accountability system; and provide leadership in the creation of an education system that respects the diverse cultures, abilities, and learning styles of all students))~~ provide advocacy and strategic oversight of public education; implement a standards-based accountability system to improve student academic achievement; provide leadership in the creation of a system that personalizes education for each student and respects diverse cultures, abilities, and learning styles; and promote achievement of the goals of RCW 28A.150.210. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) ~~((Until January 1, 2006, approve or disapprove the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.~~

~~—(2) Until January 1, 2006, conduct every five years a review of the program approval standards, including the minimum standards for teachers, administrators, and educational staff associates, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and educational staff associates.~~

~~—(3) Until January 1, 2006, investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) of this section, and prepare a list of accredited institutions of~~

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higher education of this and other states whose graduates may be awarded such certificates:

~~—(4) Until January 1, 2006:~~

~~(a) Adopt rules to allow a teacher certification candidate to fulfill, in part, teacher preparation program requirements through work experience as a classified teacher's aide in a public school or private school meeting the requirements of RCW 28A.195.010. The rules shall include, but are not limited to, limitations based upon the recency of the teacher preparation candidate's teacher aide work experience, and limitations based on the amount of work experience that may apply toward teacher preparation program requirements under this chapter; and~~

~~(b) Require that at the time of the individual's enrollment in a teacher preparation program, the supervising teacher and the building principal shall jointly provide to the teacher preparation program of the higher education institution at which the teacher candidate is enrolled, a written assessment of the performance of the teacher candidate. The assessment shall contain such information as determined by the state board of education and shall include: Evidence that at least fifty percent of the candidate's work as a classified teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for one school year; the type of work performed by the candidate; and a recommendation of whether the candidate's work experience as a classified teacher's aide should be substituted for teacher preparation program requirements. In compliance with such rules as may be established by the state board of education under this section, the teacher preparation programs of the higher education institution where the candidate is enrolled shall make the final determination as to what teacher preparation program requirements may be fulfilled by teacher aide work experience.~~

~~—(5) Until January 1, 2006, supervise the issuance of such certificates as provided for in subsection (1) of this section and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.410.010.~~

~~—(6)) Hold regularly scheduled meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business(;;)~~

~~((7)) (2) Form committees as necessary to effectively and efficiently conduct the work of the board(;;)~~

~~((8)) (3) Seek advice from the public and interested parties regarding the work of the board(;;)~~

~~((9)) (4) For purposes of statewide accountability((; the board shall)):~~

(a) Adopt and revise performance improvement goals in reading, writing, science, and mathematics, by subject and grade level, once assessments in these subjects are required statewide; academic and technical skills, as appropriate, in secondary career and technical education programs; and student attendance, as the board deems appropriate to improve student learning. The goals shall be consistent with student privacy protection provisions of RCW 28A.655.090(7) and shall not conflict with requirements contained in Title I of the federal elementary and secondary education act of 1965, or the requirements of the Carl D. Perkins vocational education act of 1998, each as amended. The goals may be established for all

students, economically disadvantaged students, limited English proficient students, students with disabilities, and students from disproportionately academically underachieving racial and ethnic backgrounds. The board may establish school and school district goals addressing high school graduation rates and dropout reduction goals for students in grades seven through twelve. The board shall adopt the goals by rule. However, before each goal is implemented, the board shall present the goal to the education committees of the house of representatives and the senate for the committees' review and comment in a time frame that will permit the legislature to take statutory action on the goal if such action is deemed warranted by the legislature;

(b) Identify the scores students must achieve in order to meet the standard on the Washington assessment of student learning and, for high school students, to obtain a certificate of academic achievement. The board shall also determine student scores that identify levels of student performance below and beyond the standard. The board shall consider the incorporation of the standard error of measurement into the decision regarding the award of the certificates. The board shall set such performance standards and levels in consultation with the superintendent of public instruction and after consideration of any recommendations that may be developed by any advisory committees that may be established for this purpose. The initial performance standards and any changes recommended by the board in the performance standards for the tenth grade assessment shall be presented to the education committees of the house of representatives and the senate by November 30th of the school year in which the changes will take place to permit the legislature to take statutory action before the changes are implemented if such action is deemed warranted by the legislature. The legislature shall be advised of the initial performance standards and any changes made to the elementary level performance standards and the middle school level performance standards;

(c) Adopt objective, systematic criteria to identify successful schools and school districts and recommend to the superintendent of public instruction schools and districts to be recognized for two types of accomplishments, student achievement and improvements in student achievement. Recognition for improvements in student achievement shall include consideration of one or more of the following accomplishments:

(i) An increase in the percent of students meeting standards. The level of achievement required for recognition may be based on the achievement goals established by the legislature and by the board under (a) of this subsection;

(ii) Positive progress on an improvement index that measures improvement in all levels of the assessment; and

(iii) Improvements despite challenges such as high levels of mobility, poverty, English as a second language learners, and large numbers of students in special populations as measured by either the percent of students meeting the standard, or the improvement index. When determining the baseline year or years for recognizing individual schools, the board may use the assessment results from the initial years the assessments were administered, if doing so with individual schools would be appropriate;

(d) Adopt objective, systematic criteria to identify schools and school districts in need of assistance and those in which significant numbers of students persistently fail to meet state

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standards. In its deliberations, the board shall consider the use of all statewide mandated criterion-referenced and norm-referenced standardized tests;

(e) Identify schools and school districts in which state intervention measures will be needed and a range of appropriate intervention strategies after the legislature has authorized a set of intervention strategies. After the legislature has authorized a set of intervention strategies, at the request of the board, the superintendent shall intervene in the school or school district and take corrective actions. This chapter does not provide additional authority for the board or the superintendent of public instruction to intervene in a school or school district;

(f) Identify performance incentive systems that have improved or have the potential to improve student achievement;

(g) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the superintendent of public instruction of any improvements needed to the system; and

(h) Include in the biennial report required under RCW 28A.305.035, information on the progress that has been made in achieving goals adopted by the board(=);

~~((+0))~~ (5) Accredit, subject to such accreditation standards and procedures as may be established by the state board of education, all private schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve: PROVIDED, That no private school may be approved that operates a kindergarten program only: PROVIDED FURTHER, That no ((public or)) private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials((= PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such preaccreditation examination and evaluation processes as may now or hereafter be established by the board:

~~—(11) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board:~~

~~—(12) Prepare such outline of study for the common schools as the board shall deem necessary, and in conformance with legislative requirements, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools:~~

~~—(13) Continuously reevaluate courses and other requirements and adopt and enforce regulations within the common schools so as to meet the educational needs of students:~~

~~—(14) Evaluate course of study requirements and);~~

(6) Articulate with the institutions of higher education, work force representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system(=);

~~((+5) Carry out board powers and duties relating to the organization and reorganization of school districts:~~

~~—(16) Hear and decide appeals as otherwise provided by law:~~

~~—(17) Promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools:~~

~~((+8))~~ (7) Hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes. Any other personnel of the board shall be appointed as provided by RCW 28A.300.020. The executive director, administrative assistant, and all but one of the other personnel of the board are exempt from civil service, together with other staff as now or hereafter designated as exempt in accordance with chapter 41.06 RCW(=); and

~~((+9))~~ (8) Adopt a seal that shall be kept in the office of the superintendent of public instruction.

**Sec. 103.** RCW 28A.305.035 and 2005 c 497 s 103 are each amended to read as follows:

(1) By October 15th of each even-numbered year, the state board of education and the professional educator standards board shall submit a joint report to the legislative education committees, the governor, and the superintendent of public instruction. The report shall address the progress the boards have made and the obstacles they have encountered, individually and collectively, in the work of achieving the goals in RCW 28A.150.210.

(2) The state board of education shall include the chairs and ranking minority members of the legislative education committees in board communications so that the legislature can be kept apprised of the discussions and proposed actions of the board.

**Sec. 104.** RCW 28A.300.040 and 2005 c 360 s 6 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

(3) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, and of consulting educational service district superintendents or other school officials;

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system and which shall be sold at approximate actual cost of publication and distribution per volume to all other public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state

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superintendent's account within the state printing plant revolving fund by a like amount;

(6) ~~(To act as ex officio member and the chief executive officer of the state board of education;~~

~~(7))~~ To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

~~((8))~~ (7) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager, or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

~~((9))~~ (8) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

~~((10))~~ (9) To issue certificates as provided by law;

~~((11))~~ (10) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

~~((12))~~ (11) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

~~((13))~~ (12) To administer oaths and affirmations in the discharge of the superintendent's official duties;

~~((14))~~ (13) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office;

~~((15))~~ (14) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

~~((16))~~ (15) To promote the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and to encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes;

~~((17))~~ (16) To perform such other duties as may be required by law.

**Sec. 105.** RCW 28A.305.011 and 2005 c 497 s 101 are each amended to read as follows:

(1) The membership of the state board of education shall be composed of sixteen members who are residents of the state of Washington:

(a) Seven shall be members representing the educational system, as follows:

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(i) Five members elected by school district directors. Three of the members elected by school district directors shall be residents of western Washington and two members shall be residents of eastern Washington;

(ii) One member elected at-large by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.195.010; and

(iii) The superintendent of public instruction;

(b) Seven members appointed by the governor; and

(c) Two students selected in a manner determined by the state board of education.

(2) Initial appointments shall be for terms from one to four years in length, with the terms expiring on the second Monday of January of the applicable year. As the terms of the first appointees expire or vacancies on the board occur, the governor shall appoint or reappoint members of the board to complete the initial terms or to four-year terms, as appropriate.

(a) Appointees of the governor must be individuals who have demonstrated interest in public schools and are supportive of educational improvement, have a positive record of service, and who will devote sufficient time to the responsibilities of the board.

(b) In appointing board members, the governor shall consider the diversity of the population of the state.

(c) All appointments to the board made by the governor are subject to confirmation by the senate.

(d) No person may serve as a member of the board, except the superintendent of public instruction, for more than two consecutive full four-year terms.

(3) The governor may remove an appointed member of the board for neglect of duty, misconduct, malfeasance, or misfeasance in office, or for incompetent or unprofessional conduct as defined in chapter 18.130 RCW. In such a case, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary of state shall send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

(4)(a) The chair of the board shall be elected by a majority vote of the members of the board. The chair of the board shall serve a term of two years, and may be reelected to an additional term. A member of the board may not serve as chair for more than two consecutive terms.

(b) Eight voting members of the board constitute a quorum for the transaction of business.

(c) All members except the student members are voting members.

(5) Members of the board appointed by the governor who are not public employees shall be compensated in accordance with RCW ~~((43.03.240))~~ 43.03.250 and shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

## PART 2

### BASIC EDUCATION ACT RESPONSIBILITIES

**Sec. 201.** RCW 28A.150.230 and 1994 c 245 s 9 are each amended to read as follows:

(1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local

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community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

(a) Establish performance criteria and an evaluation process for its certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs;

(c) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules ~~((and regulations))~~ of the state board of education;

(d) Determine the allocation of staff time, whether certificated or classified;

(e) Establish final curriculum standards consistent with law and rules ~~((and regulations of the state board of education))~~ of the superintendent of public instruction, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

(f) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

**Sec. 202.** RCW 28A.505.140 and 1990 c 33 s 422 are each amended to read as follows:

(1) Notwithstanding any other provision of law, the superintendent of public instruction ~~((is hereby directed to promulgate))~~ shall adopt such rules ~~((and regulations))~~ as will ~~((insure))~~ ensure proper budgetary procedures and practices, including monthly financial statements consistent with the provisions of RCW 43.09.200, and this chapter.

(2) If the superintendent of public instruction determines upon a review of the budget of any district that said budget does not comply with the budget procedures established by this chapter or by rules ~~((and regulations promulgated))~~ adopted by the superintendent of public instruction, or the provisions of RCW 43.09.200, the superintendent shall give written notice of this determination to the board of directors of the local school district.

(3) The local school district, notwithstanding any other provision of law, shall, within thirty days from the date the superintendent of public instruction issues a notice pursuant to subsection (2) of this section, submit a revised budget which meets the requirements of RCW 43.09.200, this chapter, and the rules ~~((and regulations))~~ of the superintendent of public instruction ~~((: PROVIDED, That if the district fails or refuses to submit a revised budget which in the determination of the superintendent of public instruction meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction, the matter shall be~~

~~submitted to the state board of education, which board shall meet and adopt a financial plan which shall be in effect until a budget can be adopted and submitted by the district in compliance with this section)).~~

**NEW SECTION. Sec. 203.** (1) As the governor's steering committee for the comprehensive education study created under chapter 496, Laws of 2005 continues the study of the state funding of public education in Washington and makes final recommendations, the legislature strongly encourages the steering committee to carefully examine whether the use of inputs, such as the number of instructional hours, the number of instructional days, and student/teacher ratios, is the most efficient and effective funding system that is oriented toward student achievement and whether any changes to the current method of allocating funds can be created to implement the intent of education reform that all children can learn.

(2) This section expires July 1, 2007.

### PART 3 SCHOOL FACILITIES AND ORGANIZATION

**Sec. 301.** RCW 28A.525.020 and 1969 ex.s. c 223 s 28A.47.060 are each amended to read as follows:

The ~~((state board of education))~~ superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, shall have the power and ~~((it shall be its))~~ duty (1) to prescribe rules ~~((and regulations))~~ governing the administration, control, terms, conditions, and disbursements of allotments to school districts to assist them in providing school plant facilities; (2) to approve allotments to districts that apply for state assistance whenever ~~((the board deems))~~ such action is advisable ~~((and in so doing to give due consideration to the findings, reports, and recommendations of the superintendent of public instruction pertaining thereto))~~; (3) to authorize the payment of approved allotments by warrant of the state treasurer; and (4) in the event that the amount of state assistance applied for exceeds the funds available for such assistance during any biennium, to make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance and/or to prorate allotments among such districts in conformity with applicable procedures and ~~((regulations applicable thereto which shall be established by the state board))~~ rules.

**Sec. 302.** RCW 28A.525.030 and 1995 c 77 s 23 are each amended to read as follows:

Whenever funds are appropriated for modernization of existing school facilities, the ~~((state board of education))~~ superintendent of public instruction is authorized to approve the use of such funds for modernization of existing facilities, modernization being limited to major structural changes in such facilities and, as necessary to bring such facilities into compliance with the barrier free access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act, both major and minor structural changes, and may include as incidental thereto the replacement of fixtures, fittings, furnishings and service systems of a building in order to bring it up to a contemporary state consistent with the needs of changing educational programs. The allocation of such funds shall be made upon the same basis as funds used for the financing of a new school plant project utilized for a similar purpose.

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**Sec. 303.** RCW 28A.525.050 and 1969 ex.s. c 223 s 28A.47.080 are each amended to read as follows:

All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction (~~(in conformity with rules and regulations which shall be prescribed by the state board of education)~~). Studies and surveys shall be conducted by the (~~(aforesaid officer)~~) superintendent for the purpose of securing information relating to (1) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (2) the ability of such districts to provide capital outlay funds by local effort, (3) the need for improvement of school administrative units and school attendance areas among or within such districts, and (4) any other pertinent matters. Recommendations respecting action on the (~~(aforesaid)~~) applications shall be submitted to the (~~(state board of education by the)~~) superintendent of public instruction (~~(together with such reports of the findings, studies, and surveys made by said officer as may be required by the state board)~~).

**Sec. 304.** RCW 28A.525.055 and 1994 c 219 s 11 are each amended to read as follows:

The (~~(state board of education)~~) rules adopted by the superintendent of public instruction for (~~(purposes of)~~) determining eligibility for state assistance for new construction(~~(s)~~) shall (~~(adopt rules excluding)~~) exclude from the inventory of available educational space those spaces that have been constructed for educational and community activities from grants received from other public or private entities.

**Sec. 305.** RCW 28A.525.070 and 1985 c 136 s 1 are each amended to read as follows:

The superintendent of public instruction shall furnish (~~(+)~~) to school districts seeking state assistance consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities for such district(~~(, and (2) to the state board of education such service as may be required by the board in the exercise of the powers and the performance of the duties vested in and required to be performed by the board)~~).

**Sec. 306.** RCW 28A.525.080 and 1969 ex.s. c 223 s 28A.47.120 are each amended to read as follows:

Insofar as is permissible under acts of congress, funds made available by the federal government for the purpose of assisting school districts in providing school plant facilities shall be made available to such districts in conformity with rules (~~(and regulations which)~~) that the (state board of education) superintendent, considering policy recommendations from the school facilities citizen advisory panel, shall establish.

**Sec. 307.** RCW 28A.525.090 and 1999 c 313 s 2 are each amended to read as follows:

(1) The (~~(state board of education)~~) superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, shall adopt rules for appropriate use of the following construction management techniques: Value engineering, constructibility review, building commissioning, and construction management. Rules adopted under this section shall:

- (a) Define each technique as it applies to school buildings;
- (b) Describe the scope of work for each technique;
- (c) Define the timing for implementing each technique in the construction process;

(d) Determine the appropriate size of projects for the use of each technique; and

(e) Determine standards for qualification and performance for each technique.

(2) Except as provided in rules adopted under subsection (1)(d) of this section, in allocating state moneys provided under this chapter, the (~~(state board of education)~~) superintendent of public instruction shall include in funding for each project, at the state matching percentage, the cost of each of the construction management techniques listed in subsection (1) of this section.

(3) When assigning priority and allocating state funds for construction of common school facilities, the (~~(state board of education)~~) superintendent shall consider the adequacy of the construction management techniques used by a district and the compliance with the rules adopted under subsection (1) of this section.

(4) Except as provided in rules adopted under subsection (1)(d) of this section, the construction management techniques in subsection (1) of this section shall be used on each project submitted for approval by the (~~(state board of education)~~) superintendent.

(5)(a) School districts applying for state assistance for school facilities shall:

(i) Cause value engineering, constructibility review, and building commissioning to be performed by contract with a professional firm specializing in those construction management techniques; and

(ii) Contract or employ personnel to perform professional construction management.

(b) All recommendations from the value engineering and constructibility review construction techniques for a school project shall be presented to the school district's board of directors for acceptance or rejection. If the board of directors rejects a recommendation it shall provide a statement explaining the reasons for rejecting the recommendation and include the statement in the application for state assistance to the (~~(state board of education)~~) superintendent of public instruction.

(6) The office of the superintendent of public instruction shall provide:

(a) An information and training program for school districts on the use of the construction management techniques; and

(b) Consulting services to districts on the benefits and best uses of these construction management techniques.

**NEW SECTION. Sec. 308.** A new section is added to chapter 28A.525 RCW to read as follows:

(1) To maintain citizen oversight on issues pertaining to school facilities and funding for school construction, a school facilities citizen advisory panel shall be created by the state board of education. The panel shall advise and make recommendations to the superintendent of public instruction regarding school facilities, funding for school construction, joint planning and financing of educational facilities, facility plans and programs for nonhigh school districts, and determinations of remote and necessary schools.

(2) The membership of the school facilities citizen advisory panel shall be as follows:

- (a) One member of the state board of education;
- (b) Two school district directors representing school districts of various sizes and geographic locations, who are appointed by the state board of education and selected from a



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list of five names submitted to the board by the Washington state school directors' association; and

(c) Four additional citizen members appointed by the state board of education.

(3) Members of the panel shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) In addition to the school facilities citizen advisory panel, the superintendent of public instruction may convene a technical advisory group including representatives from school business officers, building and construction contracting and trade organizations, architecture and engineering organizations, and other organizations with expertise in school facilities.

**Sec. 309.** RCW 28A.525.162 and 1995 c 77 s 24 are each amended to read as follows:

(1) Funds appropriated to the ~~((state board of education))~~ superintendent of public instruction from the common school construction fund shall be allotted by the ~~((state board of education))~~ superintendent of public instruction in accordance with student enrollment and the provisions of RCW 28A.525.200.

(2) No allotment shall be made to a school district until such district has provided matching funds equal to or greater than the difference between the total approved project cost and the amount of state assistance to the district for financing the project computed pursuant to RCW 28A.525.166, with the following exceptions:

(a) The ~~((state board))~~ superintendent of public instruction may waive the matching requirement for districts which have provided funds for school building construction purposes through the authorization of bonds or through the authorization of excess tax levies or both in an amount equivalent to two and one-half percent of the value of its taxable property, as defined in RCW 39.36.015.

(b) No such matching funds shall be required as a condition to the allotment of funds for the purpose of making major or minor structural changes to existing school facilities in order to bring such facilities into compliance with the barrier free access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act.

(3) For the purpose of computing the state matching percentage under RCW 28A.525.166 when a school district is granted authority to enter into contracts, adjusted valuation per pupil shall be calculated using headcount student enrollments from the most recent October enrollment reports submitted by districts to the superintendent of public instruction, adjusted as follows:

(a) In the case of projects for which local bonds were approved after May 11, 1989:

(i) For districts which have been designated as serving high school districts under RCW 28A.540.110, students residing in the nonhigh district so designating shall be excluded from the enrollment count if the student is enrolled in any grade level not offered by the nonhigh district;

(ii) The enrollment of nonhigh school districts shall be increased by the number of students residing within the district who are enrolled in a serving high school district so designated by the nonhigh school district under RCW 28A.540.110, including only students who are enrolled in grade levels not offered by the nonhigh school district; and

(iii) The number of preschool students with disabilities included in the enrollment count shall be multiplied by one-half;

(b) In the case of construction or modernization of high school facilities in districts serving students from nonhigh school districts, the adjusted valuation per pupil shall be computed using the combined adjusted valuations and enrollments of each district, each weighted by the percentage of the district's resident high school students served by the high school district; and

(c) The number of kindergarten students included in the enrollment count shall be multiplied by one-half.

(4) The ~~((state board of education))~~ superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, shall prescribe ~~((and make effective))~~ such rules as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

(5) For the purposes of this section, "preschool students with disabilities" means developmentally disabled children of preschool age who are entitled to services under RCW 28A.155.010 through 28A.155.100 and are not included in the kindergarten enrollment count of the district.

**Sec. 310.** RCW 28A.525.164 and 1990 c 33 s 456 are each amended to read as follows:

In allotting the state funds provided by RCW ~~((28A.525.160 through 28A.525.182))~~ 28A.525.162 through 28A.525.180, the ~~((state board of education))~~ superintendent of public instruction shall:

(1) Prescribe rules ~~((and regulations))~~ not inconsistent with RCW ~~((28A.525.160 through 28A.525.182))~~ 28A.525.162 through 28A.525.180 governing the administration, control, terms, conditions, and disbursement of allotments to school districts to assist them in providing school plant facilities;

(2) Approve ~~((whenever the board deems such action advisable,))~~ allotments to districts that apply for state assistance;

(3) Authorize the payment of approved allotments by warrant of the state treasurer; and

(4) In the event that the amount of state assistance applied for pursuant to the provisions hereof exceeds the funds available for such assistance during any biennium, make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance or prorate allotments among such districts in conformity with ~~((procedures and regulations))~~ applicable ~~((thereto which shall be established by the board))~~ rules.

**Sec. 311.** RCW 28A.525.166 and 1997 c 369 s 9 are each amended to read as follows:

Allocations to school districts of state funds provided by RCW ~~((28A.525.160 through 28A.525.182))~~ 28A.525.162 through 28A.525.180 shall be made by the ~~((state board of education))~~ superintendent of public instruction and the amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the ~~((state board of education))~~ superintendent.

(2) The state matching percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil).

$$\text{Computed State Ratio} = \frac{\frac{\text{District adjusted 3-valuation per pupil}}{\text{Total state adjusted valuation per pupil}} - \% \text{ Assistance}}{3 + \frac{\text{District adjusted 3-valuation per pupil}}{\text{Total state adjusted valuation per pupil}}}$$

PROVIDED, That in the event the percentage of state assistance to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state assistance under RCW ~~((28A.525.160 through 28A.525.182))~~ 28A.525.162 through 28A.525.180, the ~~((state board of education))~~ superintendent may establish for such district a percentage of state assistance not in excess of twenty percent of the approved cost of the project, if the ~~((state board))~~ superintendent finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed percent of state assistance developed in subsection (2) ((above) of this section, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each percent of growth, with a maximum of twenty percent.

(4) The approved cost of the project determined in the manner ~~((herein))~~ prescribed ((times)) in this section multiplied by the percentage of state assistance derived as provided for ((herein)) in this section shall be the amount of state assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the ~~((state board of education))~~ superintendent: PROVIDED, FURTHER, That additional state assistance may be allowed if it is found by the ~~((state board of education))~~ superintendent, considering policy recommendations from the school facilities citizen advisory panel that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden resulting from industrial projects of statewide significance or imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the

requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d), and (e) ~~((hereinabove))~~ of this subsection, creating a like emergency.

**Sec. 312.** RCW 28A.525.168 and 1990 c 33 s 458 are each amended to read as follows:

Whenever the voters of a school district authorize the issuance of bonds and/or the levying of excess taxes in an amount sufficient to meet the requirements of RCW 28A.525.162 respecting eligibility for state assistance in providing school facilities, the taxable valuation of the district and the percentage of state assistance in providing school facilities prevailing at the time of such authorization shall be the valuation and the percentage used for the purpose of determining the eligibility of the district for an allotment of state funds and the amount or amounts of such allotments, respectively, for all projects for which the voters authorize capital funds as aforesaid, unless a higher percentage of state assistance prevails on the date that state funds for assistance in financing a project are allotted by the ~~((state board of education))~~ superintendent of public instruction in which case the percentage prevailing on the date of allotment by the ~~((state board))~~ superintendent of funds for each project shall govern: PROVIDED, That if the ~~((state board of education))~~ superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, determines at any time that there has been undue or unwarranted delay on the part of school district authorities in advancing a project to the point of readiness for an allotment of state funds, the taxable valuation of the school district and the percentage of state assistance prevailing on the date that the allotment is made shall be used for the purposes aforesaid: PROVIDED, FURTHER, That the date ~~((herein))~~ specified in this section as applicable in determining the eligibility of an individual school district for state assistance and in determining the amount of such assistance shall be applicable also to cases where it is necessary in administering chapter 28A.540 RCW to determine eligibility for and the amount of state assistance for a group of school districts considered as a single school administrative unit.

**Sec. 313.** RCW 28A.525.170 and 1990 c 33 s 459 are each amended to read as follows:

If a school district which has qualified for an allotment of state funds under the provisions of RCW ~~((28A.525.160 through 28A.525.182))~~ 28A.525.162 through 28A.525.180 for school building construction is found by the ~~((state board of education))~~ superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, to have a school housing emergency requiring an allotment of state funds in excess of the amount allocable under RCW 28A.525.166, an additional allotment may be made to such district: PROVIDED, That the total amount allotted

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shall not exceed ninety percent of the total cost of the approved project which may include the cost of the site and equipment. At any time thereafter when the ~~((state board of education))~~ superintendent finds that the financial position of such school district has improved through an increase in its taxable valuation or through retirement of bonded indebtedness or through a reduction in school housing requirements, or for any combination of these reasons, the amount of such additional allotment, or any part of such amount as the ~~((state board of education))~~ superintendent determines, shall be deducted, under terms and conditions prescribed by the ~~((board))~~ superintendent, from any state school building construction funds which might otherwise be provided to such district.

**Sec. 314.** RCW 28A.525.172 and 1969 ex.s. c 244 s 7 are each amended to read as follows:

All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules ~~((and regulations which shall be prescribed))~~ adopted by the ~~((state board of education))~~ superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel. Studies and surveys shall be conducted by the ~~((state board))~~ superintendent for the purpose of securing information relating to (a) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (b) the ability of such districts to provide capital funds by local effort, (c) the need for improvement of school administrative units and school attendance areas among or within such districts, and (d) any other pertinent matters.

**Sec. 315.** RCW 28A.525.174 and 1990 c 33 s 460 are each amended to read as follows:

It shall be the duty of the ~~((state board of education))~~ superintendent of public instruction, in consultation with the Washington state department of ~~((social and))~~ health ~~((services)),~~ to prepare a manual and/or to specify other materials for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance and operation of school plant facilities for the public schools. In so doing due consideration shall be given to the presentation of information regarding ~~((a))~~ (1) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW ~~((28A.525.160 through 28A.525.182, (b)))~~ 28A.525.162 through 28A.525.180; (2) procedures in inaugurating and conducting a school plant planning program for a school district; ~~((c))~~ (3) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; ~~((d))~~ (4) the planning of readily expandable and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; ~~((e))~~ (5) an acceptable school building maintenance program and the necessity therefor; ~~((f))~~ (6) the relationship of an efficient school building operations service to the health and educational progress of pupils; and ~~((g))~~ (7) any other matters regarded by the ~~((state board))~~ superintendent as pertinent or related to the purposes and requirements of RCW ~~((28A.525.160 through 28A.525.182))~~ 28A.525.162 through 28A.525.180.

**Sec. 316.** RCW 28A.525.176 and 1990 c 33 s 461 are each amended to read as follows:

The ~~((state board of education))~~ superintendent of public instruction shall furnish to school districts seeking state assistance under the provisions of RCW ~~((28A.525.160 through 28A.525.182))~~ 28A.525.162 through 28A.525.180 consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities.

**Sec. 317.** RCW 28A.525.178 and 1990 c 33 s 462 are each amended to read as follows:

~~((Whenever in the judgment of the state board of education))~~ When economies may be ~~((effected))~~ affected without impairing the usefulness and adequacy of school buildings, ~~((said board))~~ the superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, may prescribe rules ~~((and regulations))~~ and establish procedures governing the preparation and use of modifiable basic or standard plans for school building construction projects for which state assistance funds provided by RCW ~~((28A.525.160 through 28A.525.182))~~ 28A.525.162 through 28A.525.180 are allotted.

**Sec. 318.** RCW 28A.525.180 and 1990 c 33 s 463 are each amended to read as follows:

The total amount of funds appropriated under the provisions of RCW ~~((28A.525.160 through 28A.525.182))~~ 28A.525.162 through 28A.525.180 shall be reduced by the amount of federal funds made available during each biennium for school construction purposes under any applicable federal law. The funds appropriated by RCW ~~((28A.525.160 through 28A.525.182))~~ 28A.525.162 through 28A.525.180 and available for allotment by the ~~((state board of education))~~ superintendent of public instruction shall be reduced by the amount of such federal funds made available. Notwithstanding the foregoing provisions of this section, the total amount of funds appropriated by RCW ~~((28A.525.160 through 28A.525.182))~~ 28A.525.162 through 28A.525.180 shall not be reduced by reason of any grants to any school district of federal moneys paid under Public Law No. 815 or any other federal act authorizing school building construction assistance to federally affected areas.

**Sec. 319.** RCW 28A.525.190 and 1975 1st ex.s. c 98 s 2 are each amended to read as follows:

The ~~((state board of education))~~ superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel shall prioritize the construction of common school facilities only from funds appropriated and available in the common school construction fund.

**Sec. 320.** RCW 28A.525.200 and 1990 c 33 s 465 are each amended to read as follows:

Notwithstanding any other provision of RCW 28A.525.010 through 28A.525.222, the allocation and distribution of funds by the ~~((state board of education which are now or may hereafter be appropriated))~~ superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, for the purposes of providing assistance in the construction of school plant facilities shall be governed by ~~((RCW 28A.525.010 through 28A.525.080 and 28A.525.162 through 28A.525.178))~~ this chapter.

**Sec. 321.** RCW 28A.525.216 and 1990 c 33 s 467 are each amended to read as follows:

The proceeds from the sale of the bonds deposited under RCW 28A.525.214 in the common school construction fund shall be administered by the ~~((state board of education))~~ superintendent of public instruction.

**Sec. 322.** RCW 28A.150.260 and 1997 c 13 s 2 are each amended to read as follows:

The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (a) Certificated instructional staff and their related costs;
- (b) Certificated administrative staff and their related costs;
- (c) Classified staff and their related costs;
- (d) Nonsalary costs;

(e) Extraordinary costs, including school facilities, of remote and necessary schools as judged by the superintendent of public instruction, with recommendations from the school facilities citizen advisory panel under section 308 of this act, and small high schools, including costs of additional certificated and classified staff; and

(f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(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. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) The formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) 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: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. 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 and shall exclude full time equivalent students with disabilities recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The definition of full time equivalent student shall be determined by rules of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That 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.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such classified people shall not occur during a labor dispute and such classified people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4).

**Sec. 323.** RCW 28A.335.160 and 1995 c 335 s 604 are each amended to read as follows:

Any school district may cooperate with one or more school districts in the joint financing, planning, construction, equipping and operating of any educational facility otherwise authorized by law: PROVIDED, That any cooperative financing plan involving the construction of school plant facilities must be approved by the ~~((state board of education))~~ superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel under section 308 of this act, pursuant to such rules ~~((as may now or hereafter be promulgated))~~ adopted relating to state approval of school construction.

**Sec. 324.** RCW 28A.540.050 and 1990 c 33 s 485 are each amended to read as follows:

Subsequent to the holding of a hearing or hearings as provided in RCW 28A.540.040, the regional committee on school district organization shall determine the nonhigh school districts to be included in the plan and the amount of capital funds to be provided by every school district included therein, and shall submit the proposed plan to the ~~((state board of education))~~ superintendent of public instruction together with such maps and other materials pertaining thereto as the ~~((state board))~~ superintendent may require. The ~~((state board))~~ superintendent, considering policy recommendations from the school facilities citizen advisory panel under section 308 of this act, shall review such plan, shall approve any plan which in ~~((its))~~ his or her judgment makes adequate and satisfactory provision for participation by the nonhigh school districts in providing capital funds to be used for the purpose above stated, and shall notify the regional committee of such action. Upon receipt by the regional committee of such notification, the

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educational service district superintendent, or his or her designee, shall notify the board of directors of each school district included in the plan, supplying each board with complete details of the plan and shall state the total amount of funds to be provided and the amount to be provided by each district.

If any such plan submitted by a regional committee is not approved by the ~~((state board))~~ superintendent of public instruction, the regional committee shall be so notified, which notification shall contain a statement of reasons therefor and suggestions for revision. Within sixty days thereafter the regional committee shall submit to the ~~((state board))~~ superintendent a revised plan which revision shall be subject to approval or disapproval by the ~~((state board))~~ superintendent, considering policy recommendations from the school facilities citizen advisory panel, and the procedural requirements and provisions of law applicable to an original plan submitted to ~~((said board))~~ the superintendent.

**NEW SECTION. Sec. 325.** A new section is added to chapter 28A.545 RCW to read as follows:

The superintendent of public instruction, with recommendations from the school facilities citizen advisory panel under section 308 of this act, shall adopt rules governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established, the district must obtain prior approval of the superintendent of public instruction.

**Sec. 326.** RCW 28A.150.530 and 2005 c 12 s 7 are each amended to read as follows:

(1) In adopting implementation rules, ~~((the state board of education, in consultation with))~~ the superintendent of public instruction ~~((and))~~, in consultation with the department of general administration, shall review and modify the current requirement for an energy conservation report review by the department of general administration as provided in WAC 180-27-075.

(2) In adopting implementation rules, ~~((the state board of education, in consultation with))~~ the superintendent of public instruction shall:

(a) Review and modify the current requirements for value engineering, ~~((constructability))~~ constructibility review, and building commissioning as provided in WAC 180-27-080;

(b) Review private and public utility providers' capacity and financial/technical assistance programs for affected public school districts to monitor and report utility consumption for purposes of reporting to the superintendent of public instruction as provided in RCW 39.35D.040;

(c) Coordinate with the department of general administration, the state board of health, the department of ecology, federal agencies, and other affected agencies as appropriate in their consideration of rules to implement this section.

**Sec. 327.** RCW 28A.335.210 and 2005 c 36 s 1 are each amended to read as follows:

The ~~((state board of education and))~~ superintendent of public instruction shall allocate, as a nondeductible item, out of any moneys appropriated for state assistance to school districts for the original construction of any school plant facility the amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art. The works of art may be placed in

accordance with Article IX, sections 2 and 3 of the state Constitution on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities. The Washington state arts commission shall, in consultation with the superintendent of public instruction, determine the amount to be made available for the purchase of works of art under this section, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the superintendent of public instruction and representatives of school district boards of directors. The superintendent of public instruction and the school district board of directors of the districts where the sites are selected shall have the right to:

(1) Waive its use of the one-half of one percent of the appropriation for the acquisition of works of art before the selection process by the Washington state arts commission;

(2) Appoint a representative to the body established by the Washington state arts commission to be part of the selection process with full voting rights;

(3) Reject the results of the selection process;

(4) Reject the placement of a completed work or works of art on school district premises if such works are portable.

Rejection at any point before or after the selection process shall not cause the loss of or otherwise endanger state construction funds available to the local school district. Any works of art rejected under this section shall be applied to the provision of works of art under this chapter, at the discretion of the Washington state arts commission, notwithstanding any contract or agreement between the affected school district and the artist involved. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided ~~((herein))~~ in this section shall be used to provide for the administration, including conservation of the state art collection, by the Washington state arts commission and all costs for installation of the work of art. For the purpose of this section building shall not include sheds, warehouses, or other buildings of a temporary nature.

The executive director of the arts commission, the superintendent of public instruction, and the Washington state school directors association shall appoint a study group to review the operations of the one-half of one percent for works of art under this section.

**Sec. 328.** RCW 28A.335.230 and 1987 c 112 s 1 are each amended to read as follows:

School districts shall be required to lease for a reasonable fee vacant school plant facilities from a contiguous school district wherever possible.

No school district with unhoused students may be eligible for the state matching funds for the construction of school plant facilities if:

(1) The school district contiguous to the school district applying for the state matching percentage has vacant school plant facilities;

(2) The superintendent of public instruction ~~((and the state board of education have))~~ has determined the vacant school plant facilities available in the contiguous district will fulfill the

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needs of the applicant district in housing unhoused students. In determining whether the contiguous district school plant facilities meet the needs of the applicant district, consideration shall be given, but not limited to the geographic location of the vacant facilities as they relate to the applicant district; and

(3) A lease of the vacant school plant facilities can be negotiated.

**Sec. 329.** RCW 28A.540.070 and 1990 c 33 s 486 are each amended to read as follows:

In the event that a proposal or proposals for providing capital funds as provided in RCW 28A.540.060 is not approved by the voters of a nonhigh school district a second election thereon shall be held within sixty days thereafter. If the vote of the electors of the nonhigh school district is again in the negative, the high school students residing therein shall not be entitled to admission to the high school under the provisions of RCW 28A.225.210, following the close of the school year during which the second election is held: PROVIDED, That in any such case the regional committee on school district organization shall determine within thirty days after the date of the aforesaid election the advisability of initiating a proposal for annexation of such nonhigh school district to the school district in which the proposed facilities are to be located or to some other district where its students can attend high school without undue inconvenience: PROVIDED FURTHER, That pending such determination by the regional committee and action thereon as required by law the board of directors of the high school district shall continue to admit high school students residing in the nonhigh school district. Any proposal for annexation of a nonhigh school district initiated by a regional committee shall be subject to the procedural requirements of this chapter respecting a public hearing and submission to and approval by the ~~((state board of education))~~ superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel under section 308 of this act. Upon approval by the ~~((state board))~~ superintendent of public instruction of any such proposal, the educational service district superintendent shall make an order, establishing the annexation.

**Sec. 330.** RCW 39.35D.020 and 2005 c 12 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of general administration.

(2) "High-performance public buildings" means high-performance public buildings designed, constructed, and certified to a standard as identified in this chapter.

(3) "Institutions of higher education" means the state universities, the regional universities, The Evergreen State College, the community colleges, and the technical colleges.

(4) "LEED silver standard" means the United States green building council leadership in energy and environmental design green building rating standard, referred to as silver standard.

(5)(a) "Major facility project" means: (i) A construction project larger than five thousand gross square feet of occupied or conditioned space as defined in the Washington state energy code; or (ii) a building renovation project when the cost is greater than fifty percent of the assessed value and the project is larger than five thousand gross square feet of occupied or conditioned space as defined in the Washington state energy code.

(b) "Major facility project" does not include: (i) Projects for which the department, public school district, or other applicable agency and the design team determine the LEED silver standard or the Washington sustainable school design protocol to be not practicable; or (ii) transmitter buildings, pumping stations, hospitals, research facilities primarily used for sponsored laboratory experimentation, laboratory research, or laboratory training in research methods, or other similar building types as determined by the department. When the LEED silver standard is determined to be not practicable for a project, then it must be determined if any LEED standard is practicable for the project. If LEED standards or the Washington sustainable school design protocol are not followed for the project, the public school district or public agency shall report these reasons to the department.

(6) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and public higher education institution.

(7) "Public school district" means a school district eligible to receive state basic education moneys pursuant to RCW 28A.150.250 and 28A.150.260.

(8) "Washington sustainable school design protocol" means the school design protocol and related information developed by the ~~((state board of education and the))~~ office of the superintendent of public instruction, in conjunction with school districts and the school facilities advisory board.

**Sec. 331.** RCW 39.35D.040 and 2005 c 12 s 4 are each amended to read as follows:

(1) All major facility projects of public school districts receiving any funding in a state capital budget must be designed and constructed to at least the LEED silver standard or the Washington sustainable school design protocol. To the extent appropriate LEED silver or Washington sustainable school design protocol standards exist for the type of building or facility, this subsection applies to major facility projects that have not received project approval from the superintendent of public instruction prior to: (a) July 1, 2006, for volunteering school districts; (b) July 1, 2007, for class one school districts; and (c) July 1, 2008, for class two school districts.

(2) Public school districts under this section shall: (a) Monitor and document appropriate operating benefits and savings resulting from major facility projects designed and constructed as required under this section for a minimum of five years following local board acceptance of a project receiving state funding; and (b) report annually to the superintendent of public instruction. The form and content of each report must be mutually developed by the office of the superintendent of public instruction in consultation with school districts.

(3) The superintendent of public instruction shall consolidate the reports required in subsection (2) of this section into one report and report to the governor and legislature by September 1st of each even-numbered year beginning in 2006 and ending in 2016. In its report, the superintendent of public instruction shall also report on the implementation of this chapter, including reasons why the LEED standard or Washington sustainable school design protocol was not used as required by RCW 39.35D.020(5)(b). The superintendent of public instruction shall make recommendations regarding the ongoing implementation of this chapter, including a discussion of incentives and disincentives related to implementing this chapter.

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(4) The ~~((state board of education, in consultation with the))~~ superintendent of public instruction~~(;)~~ shall develop and issue guidelines for administering this chapter for public school districts. The purpose of the guidelines is to define a procedure and method for employing and verifying compliance with the LEED silver standard or the Washington sustainable school design protocol.

(5) The superintendent of public instruction shall utilize the school facilities advisory board as a high-performance buildings advisory committee comprised of affected public schools, ~~((the state board of education;))~~ the superintendent of public instruction, the department, and others at the superintendent of public instruction's discretion to provide advice on implementing this chapter. Among other duties, the advisory committee shall make recommendations regarding an education and training process and an ongoing evaluation or feedback process to help the superintendent of public instruction ~~((and the state board of education))~~ implement this chapter.

**Sec. 332.** RCW 39.35D.060 and 2005 c 12 s 6 are each amended to read as follows:

(1)(a) The department, in consultation with affected public agencies, shall develop and issue guidelines for administering this chapter for public agencies. The purpose of the guidelines is to define a procedure and method for employing and verifying activities necessary for certification to at least the LEED silver standard for major facility projects.

(b) The department and the office of the superintendent of public instruction shall amend their fee schedules for architectural and engineering services to accommodate the requirements in the design of major facility projects under this chapter.

(c) The department and the office of the superintendent of public instruction shall procure architecture and engineering services consistent with chapter 39.80 RCW.

(d) Major facility projects designed to meet standards identified in this chapter must include building commissioning as a critical cost-saving part of the construction process. This process includes input from the project design and construction teams and the project ownership representatives.

(e) As provided in the request for proposals for construction services, the operating agency shall hold a preproposal conference for prospective bidders to discuss compliance with and achievement of standards identified in this chapter for prospective respondents.

(2) The department shall create a high-performance buildings advisory committee comprised of representatives from the design and construction industry involved in public works contracting, personnel from the affected public agencies responsible for overseeing public works projects, ~~((the state board of education;))~~ the office of the superintendent of public instruction, and others at the department's discretion to provide advice on implementing this chapter. Among other duties, the advisory committee shall make recommendations regarding an education and training process and an ongoing evaluation or feedback process to help the department implement this chapter.

(3) The department and the ~~((state board of education))~~ office of the superintendent of public instruction shall adopt rules to implement this section.

**Sec. 333.** RCW 79.17.100 and 2003 c 334 s 322 are each amended to read as follows:

Except as otherwise provided in RCW 79.17.110, upon the application of a school district or any institution of higher

education for the purchase or lease of lands granted to the state by the United States, the department may offer such land for sale or lease to such school district or institution of higher education in such acreage as it may determine, consideration being given upon application of a school district to school site criteria established by the ~~((state board of education))~~ superintendent of public instruction. However, in the event the department thereafter proposes to offer such land for sale or lease at public auction, such school district or institution of higher education shall have a preference right for six months from notice of such proposal to purchase or lease such land at the appraised value determined by the board.

**Sec. 334.** RCW 79.17.120 and 2003 c 334 s 438 are each amended to read as follows:

The purchases authorized under RCW 79.17.110 shall be classified as for the construction of common school plant facilities under RCW 28A.525.010 through 28A.525.222 and shall be payable out of the common school construction fund as otherwise provided for in RCW 28A.515.320 if the school district involved was under emergency school construction classification as established by the ~~((state board of education))~~ superintendent of public instruction at any time during the period of its lease of state lands.

**NEW SECTION. Sec. 335.** The following sections are each decodified:

- RCW 28A.525.120
- RCW 28A.525.122
- RCW 28A.525.124
- RCW 28A.525.126
- RCW 28A.525.128
- RCW 28A.525.130
- RCW 28A.525.132
- RCW 28A.525.134
- RCW 28A.525.140
- RCW 28A.525.142
- RCW 28A.525.144
- RCW 28A.525.146
- RCW 28A.525.148
- RCW 28A.525.150
- RCW 28A.525.152
- RCW 28A.525.154
- RCW 28A.525.156
- RCW 28A.525.158
- RCW 28A.525.160
- RCW 28A.525.182

**PART 4  
COURSES OF STUDY AND EDUCATIONAL  
PROGRAMS**

**Sec. 401.** RCW 28A.305.220 and 2004 c 19 s 108 are each amended to read as follows:

(1) The ~~((state board of education))~~ superintendent of public instruction, in consultation with the higher education coordinating board, the state board for community and technical colleges, and the work force training and education coordinating board, shall develop for use by all public school districts a standardized high school transcript. The ~~((state board of education))~~ superintendent shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

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(2) The standardized high school transcript shall include the following information:

(a) The highest scale score and level achieved in each content area on the high school Washington assessment of student learning or other high school measures successfully completed by the student as provided by RCW 28A.655.061 and 28A.155.045;

(b) All scholar designations as provided by RCW 28A.655.061;

(c) A notation of whether the student has earned a certificate of individual achievement or a certificate of academic achievement by means of the Washington assessment of student learning or by an alternative assessment.

(3) Transcripts are important documents to students who will apply for admission to postsecondary institutions of higher education. Transcripts are also important to students who will seek employment upon or prior to graduation from high school. It is recognized that student transcripts may be the only record available to employers in their decision-making processes regarding prospective employees. The superintendent of public instruction shall require school districts to inform annually all high school students that prospective employers may request to see transcripts and that the prospective employee's decision to release transcripts can be an important part of the process of applying for employment.

**Sec. 402.** RCW 28A.230.100 and 1991 c 116 s 8 are each amended to read as follows:

The (~~state board of education~~) superintendent of public instruction, in consultation with the higher education coordinating board, the state board for community and technical colleges, and the work force training and education coordinating board, shall adopt rules pursuant to chapter 34.05 RCW, to implement the course requirements set forth in RCW 28A.230.090. The rules shall include, as the (~~state board~~) superintendent deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW 28A.230.090 and special alterations of the course requirements in RCW 28A.230.090. In developing such rules the (~~state board~~) superintendent shall recognize the relevance of vocational and applied courses and allow such courses to fulfill in whole or in part the courses required for graduation in RCW 28A.230.090. The rules may include provisions for competency testing in lieu of such courses required for graduation in RCW 28A.230.090 or demonstration of specific skill proficiency or understanding of concepts through work or experience.

**Sec. 403.** RCW 28A.230.170 and 1985 c 341 s 1 are each amended to read as follows:

The study of the Constitution of the United States and the Constitution of the state of Washington shall be a condition prerequisite to graduation from the public and private high schools of this state. The (~~state board of education acting upon the advice of the~~) superintendent of public instruction shall provide by rule (~~or regulation~~) for the implementation of this section.

**NEW SECTION. Sec. 404.** The state board of education, in consultation with the state board for community and technical colleges, shall examine the statutory authority, rules, and jurisdiction between the K-12 and postsecondary education systems regarding the general educational development test and adult education. The board shall make recommendations for change or clarification to the education committees of the legislature by January 15, 2007.

**NEW SECTION. Sec. 405.** (1) The state board of education shall develop and propose a revised definition of the purpose and expectations for high school diplomas issued by public schools in Washington state. The revised definition shall address whether attainment of a high school diploma is intended to signify that a student is ready for success in college, ready for successful and gainful employment in the workplace, or some combination of these and other objectives. The revised definition shall focus on the knowledge, skills, and abilities that students are expected to demonstrate to receive a high school diploma, as well as the various methods to be used to measure student performance, rather than focusing on courses, credits, seat time, and test scores.

(2) In developing the revised definition of the high school diploma, the state board of education shall consult with educators, parents, institutions of higher education, employers, and community leaders. The board shall also work with the state board for community and technical colleges, the higher education coordinating board, and the work force training and education coordinating board.

(3) The state board of education shall submit the proposed revised definition of the high school diploma, along with any necessary revisions to state statutes and rules, to the education committees of the legislature by December 1, 2007.

**Sec. 406.** RCW 28A.305.170 and 2002 c 291 s 3 are each amended to read as follows:

(1) In addition to any other powers and duties as provided by law, the (~~state board of education~~) superintendent of public instruction, in consultation with the military department, shall adopt rules governing and authorizing the acceptance of national guard high school career training and the national guard youth challenge program in lieu of either required high school credits or elective high school credits.

(2) With the exception of students enrolled in the national guard youth challenge program, students enrolled in such national guard programs shall be considered enrolled in the common school last attended preceding enrollment in such national guard program.

(3) The (~~board~~) superintendent shall adopt rules to ensure that students who successfully complete the national guard youth challenge program are granted an appropriate number of high school credits, based on the students' levels of academic proficiency as measured by the program.

**Sec. 407.** RCW 28A.230.130 and 2003 c 49 s 2 are each amended to read as follows:

(1) All public high schools of the state shall provide a program, directly or in cooperation with a community college or another school district, for students whose educational plans include application for entrance to a baccalaureate-granting institution after being granted a high school diploma. The program shall help these students to meet at least the minimum entrance requirements under RCW 28B.10.050.

(2) All public high schools of the state shall provide a program, directly or in cooperation with a community or technical college, a skills center, an apprenticeship committee, or another school district, for students who plan to pursue career or work opportunities other than entrance to a baccalaureate-granting institution after being granted a high school diploma. These programs may:

(a) Help students demonstrate the application of essential academic learning requirements to the world of work,



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occupation-specific skills, knowledge of more than one career in a chosen pathway, and employability and leadership skills; and

(b) Help students demonstrate the knowledge and skill needed to prepare for industry certification, and/or have the opportunity to articulate to postsecondary education and training programs.

~~((3) The state board of education, upon request from local school districts, may grant waivers from the requirements to provide the program described in subsections (1) and (2) of this section for reasons relating to school district size and the availability of staff authorized to teach subjects which must be provided. In considering waiver requests related to programs in subsection (2) of this section, the state board of education shall consider the extent to which the school district has offered such programs before the 2003-04 school year.))~~

**Sec. 408.** RCW 28A.205.010 and 2005 c 497 s 214 are each amended to read as follows:

(1) As used in this chapter, unless the context thereof shall clearly indicate to the contrary:

"Education center" means any private school operated on a profit or nonprofit basis which does the following:

(a) Is devoted to the teaching of basic academic skills, including specific attention to improvement of student motivation for achieving, and employment orientation.

(b) Operates on a clinical, client centered basis. This shall include, but not be limited to, performing diagnosis of individual educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction therefor, and evaluation of each individual client's progress in his or her educational program.

(c) Conducts courses of instruction by professionally trained personnel certificated by the Washington professional educator standards board according to rules adopted for the purposes of this chapter and providing, for certification purposes, that a year's teaching experience in an education center shall be deemed equal to a year's teaching experience in a common or private school.

(2) For purposes of this chapter, basic academic skills shall include the study of mathematics, speech, language, reading and composition, science, history, literature and political science or civics; it shall not include courses of a vocational training nature and shall not include courses deemed nonessential to the accrediting ~~((of the common schools))~~ or the approval of private schools under RCW 28A.305.130.

(3) The ~~((state board of education))~~ superintendent of public instruction shall certify an education center only upon application and (a) determination that such school comes within the definition thereof as set forth in subsection (1) of this section and (b) demonstration on the basis of actual educational performance of such applicants' students which shows after consideration of their students' backgrounds, educational gains that are a direct result of the applicants' educational program. Such certification may be withdrawn if the ~~((board))~~ superintendent finds that a center fails to provide adequate instruction in basic academic skills. No education center certified by the ~~((state board of education))~~ superintendent of public instruction pursuant to this section shall be deemed a common school under RCW 28A.150.020 or a private school for the purposes of RCW 28A.195.010 through 28A.195.050.

**Sec. 409.** RCW 28A.205.070 and 1993 c 211 s 6 are each amended to read as follows:

In allocating funds appropriated for education centers, the superintendent of public instruction shall:

(1) Place priority upon stability and adequacy of funding for education centers that have demonstrated superior performance as defined in RCW 28A.205.040(2).

(2) Initiate and maintain a competitive review process to select new or expanded center programs in unserved or underserved areas. The criteria for review of competitive proposals for new or expanded education center services shall include but not be limited to:

(a) The proposing organization shall have obtained certification from the ~~((state board of education))~~ superintendent of public instruction as provided in RCW 28A.205.010;

(b) The cost-effectiveness of the proposal; and

(c) The availability of committed nonstate funds to support, enrich, or otherwise enhance the basic program.

(3) In selecting areas for new or expanded education center programs, the superintendent of public instruction shall consider factors including but not limited to:

(a) The proportion and total number of dropouts unserved by existing center programs, if any;

(b) The availability within the geographic area of programs other than education centers which address the basic educational needs of dropouts; and

(c) Waiting lists or other evidence of demand for expanded education center programs.

(4) In the event of any curtailment of services resulting from lowered legislative appropriations, the superintendent of public instruction shall issue pro rata reductions to all centers funded at the time of the lowered appropriation. Individual centers may be exempted from such pro rata reductions if the superintendent finds that such reductions would impair the center's ability to operate at minimally acceptable levels of service. In the event of such exceptions, the superintendent shall determine an appropriate rate for reduction to permit the center to continue operation.

(5) In the event that an additional center or centers become certified and apply to the superintendent for funds to be allocated from a legislative appropriation which does not increase from the immediately preceding biennium, or does not increase sufficiently to allow such additional center or centers to operate at minimally acceptable levels of service without reducing the funds available to previously funded centers, the superintendent shall not provide funding for such additional center or centers from such appropriation.

**Sec. 410.** RCW 28A.215.010 and 1995 c 335 s 104 are each amended to read as follows:

The board of directors of any school district shall have the power to establish and maintain preschools and to provide before-and-after-school and vacation care in connection with the common schools of said district located at such points as the board shall deem most suitable for the convenience of the public, for the care and instruction of infants and children residing in said district. The board shall establish such courses, activities, rules, and regulations governing preschools and before-and-after-school care as it may deem best: PROVIDED, That these courses and activities shall meet the minimum standard for such preschools as established by the United States department of health, education and welfare, or its successor agency, and the ~~((state board of education))~~ superintendent of public instruction. Except as otherwise provided by state or federal law, the board of directors may fix a reasonable charge

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for the care and instruction of children attending such schools. The board may, if necessary, supplement such funds as are received for the superintendent of public instruction or any agency of the federal government, by an appropriation from the general school fund of the district.

**Sec. 411.** RCW 28A.215.020 and 1995 c 335 s 308 are each amended to read as follows:

Expenditures under federal funds and/or state appropriations made to carry out the purposes of RCW 28A.215.010 through 28A.215.050 shall be made by warrants issued by the state treasurer upon order of the superintendent of public instruction. The ~~((state board of education))~~ superintendent of public instruction shall make necessary rules ~~((and regulations))~~ to carry out the purpose of RCW 28A.215.010. After being notified by the office of the governor that there is an agency or department responsible for early learning, the superintendent shall consult with that agency when establishing relevant rules.

**Sec. 412.** RCW 28A.205.040 and 1999 c 348 s 4 are each amended to read as follows:

(1)(a) From funds appropriated for that purpose, the superintendent of public instruction shall pay fees to a certified center on a monthly basis for each student enrolled in compliance with RCW 28A.205.020. The superintendent shall set fees by rule.

(b) Revisions in such fees proposed by an education center shall become effective after thirty days notice unless the superintendent finds such a revision is unreasonable in which case the revision shall not take effect. ~~((An education center may, within fifteen days after such a finding by the superintendent, file notification of appeal with the state board of education which shall, no later than its second regularly scheduled meeting following notification of such appeal, either grant or deny the proposed revision.))~~ The administration of any general education development test shall not be a part of such initial diagnostic procedure.

(c) Reimbursements shall not be made for students who are absent.

(d) No center shall make any charge to any student, or the student's parent, guardian or custodian, for whom a fee is being received under the provisions of this section.

(2) Payments shall be made from available funds first to those centers that have in the judgment of the superintendent demonstrated superior performance based upon consideration of students' educational gains taking into account such students' backgrounds, and upon consideration of cost effectiveness. In considering the cost effectiveness of nonprofit centers the superintendent shall take into account not only payments made under this section but also factors such as tax exemptions, direct and indirect subsidies or any other cost to taxpayers at any level of government which result from such nonprofit status.

(3) To be eligible for such payment, every such center, without prior notice, shall permit a review of its accounting records by personnel of the state auditor during normal business hours.

(4) If total funds for this purpose approach depletion, the superintendent shall notify the centers of the date after which further funds for reimbursement of the centers' services will be exhausted.

**Sec. 413.** RCW 28A.215.140 and 1988 c 174 s 5 are each amended to read as follows:

The department shall establish an advisory committee composed of interested parents and representatives from ~~((the~~

~~state board of education.))~~ the office of the superintendent of public instruction, the division of children and family services within the department of social and health services, early childhood education and development staff preparation programs, the head start programs, school districts, and such other community and business organizations as deemed necessary by the department to assist with the establishment of the preschool program and advise the department on matters regarding the on-going promotion and operation of the program.

**Sec. 414.** RCW 28A.230.020 and 1991 c 116 s 6 are each amended to read as follows:

All common schools shall give instruction in reading, penmanship, orthography, written and mental arithmetic, geography, the history of the United States, English grammar, physiology and hygiene with special reference to the effects of alcohol and drug abuse on the human system, science with special reference to the environment, and such other studies as may be prescribed by rule ~~((or regulation))~~ of the ~~((state board of education))~~ superintendent of public instruction. All teachers shall stress the importance of the cultivation of manners, the fundamental principles of honesty, honor, industry and economy, the minimum requisites for good health including the beneficial effect of physical exercise and methods to prevent exposure to and transmission of sexually transmitted diseases, and the worth of kindness to all living creatures and the land. The prevention of child abuse may be offered as part of the curriculum in the common schools.

**Sec. 415.** RCW 28A.230.040 and 1984 c 52 s 1 are each amended to read as follows:

Every pupil attending grades one through eight of the public schools shall receive instruction in physical education as prescribed by rule ~~((or regulation))~~ of the ~~((state board of education))~~ superintendent of public instruction: PROVIDED, That individual pupils or students may be excused on account of physical disability, religious belief, or participation in directed athletics.

**Sec. 416.** RCW 28A.230.050 and 1985 c 384 s 3 are each amended to read as follows:

All high schools of the state shall emphasize the work of physical education, and carry into effect all physical education requirements established by rule ~~((or regulation))~~ of the ~~((state board of education))~~ superintendent of public instruction: PROVIDED, That individual students may be excused from participating in physical education otherwise required under this section on account of physical disability, employment, or religious belief, or because of participation in directed athletics or military science and tactics or for other good cause.

**Sec. 417.** RCW 28A.330.100 and 1995 c 335 s 503 and 1995 c 77 s 22 are each reenacted and amended to read as follows:

Every board of directors of a school district of the first class, in addition to the general powers for directors enumerated in this title, shall have the power:

(1) To employ for a term of not exceeding three years a superintendent of schools of the district, and for cause to dismiss him or her~~((:))~~, and to fix his or her duties and compensation~~((:))~~;

(2) To employ, and for cause dismiss one or more assistant superintendents and to define their duties and fix their compensation~~((:))~~;

(3) To employ a business manager, attorneys, architects, inspectors of construction, superintendents of buildings and a

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superintendent of supplies, all of whom shall serve at the board's pleasure, and to prescribe their duties and fix their compensation(-);

(4) To employ, and for cause dismiss, supervisors of instruction and to define their duties and fix their compensation(-);

(5) To prescribe a course of study and a program of exercises which shall be consistent with the course of study prepared by the ~~((state board of education))~~ superintendent of public instruction for the use of the common schools of this state(-);

(6) To, in addition to the minimum requirements imposed by this title establish and maintain such grades and departments, including night, high, kindergarten, vocational training and, except as otherwise provided by law, industrial schools, and schools and departments for the education and training of any class or classes of youth with disabilities, as in the judgment of the board, best shall promote the interests of education in the district(-);

(7) To determine the length of time over and above one hundred eighty days that school shall be maintained: PROVIDED, That for purposes of apportionment no district shall be credited with more than one hundred and eighty-three days' attendance in any school year; and to fix the time for annual opening and closing of schools and for the daily dismissal of pupils before the regular time for closing schools(-);

(8) To maintain a shop and repair department, and to employ, and for cause dismiss, a foreman and the necessary help for the maintenance and conduct thereof(-);

(9) To provide free textbooks and supplies for all children attending school(-);

(10) To require of the officers or employees of the district to give a bond for the honest performance of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the premium for all bonds required of all such officers or employees to be paid by the district: PROVIDED, That the board may, by written policy, allow that such bonds may include a deductible proviso not to exceed two percent of the officer's or employee's annual salary(-);

(11) To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts(-); and

(12) To appoint a practicing physician, resident of the school district, who shall be known as the school district medical inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district who shall serve at the board's pleasure: PROVIDED, That children shall not be required to submit to vaccination against the will of their parents or guardian.

NEW SECTION. Sec. 418. RCW 28A.305.220 is recodified as a new section in chapter 28A.230 RCW.

NEW SECTION. Sec. 419. RCW 28A.305.170 is recodified as a new section in chapter 28A.300 RCW.

**PART 5  
SCHOOL DISTRICT BOUNDARIES**

**Sec. 501.** RCW 28A.315.175 and 1999 c 315 s 302 are each amended to read as follows:

~~((The powers and duties of the state board with respect to this chapter shall be))~~ The superintendent of public instruction shall:

(1) ~~((To))~~ Aid regional committees in the performance of their duties by furnishing them with plans of procedure, standards, data, maps, forms, and other necessary materials and services essential to a study and understanding of the problems of school district organization in their respective educational service districts(-); and

(2) ~~((To hear appeals as provided in RCW 28A.315.205))~~ Carry out powers and duties of the superintendent of public instruction relating to the organization and reorganization of school districts.

**Sec. 502.** RCW 28A.315.195 and 2003 c 413 s 2 are each amended to read as follows:

(1) A proposed change in school district organization by transfer of territory from one school district to another may be initiated by a petition in writing presented to the educational service district superintendent:

(a) Signed by at least fifty percent plus one of the active registered voters residing in the territory proposed to be transferred; or

(b) Signed by a majority of the members of the board of directors of one of the districts affected by a proposed transfer of territory.

(2) The petition shall state the name and number of each district affected, describe the boundaries of the territory proposed to be transferred, and state the reasons for desiring the change and the number of children of school age, if any, residing in the territory.

(3) The educational service district superintendent shall not complete any transfer of territory under this section that involves ten percent or more of the common school student population of the entire district from which the transfer is proposed, unless the educational service district superintendent has first called and held a special election of the voters of the entire school district from which the transfer of territory is proposed. The purpose of the election is to afford those voters an opportunity to approve or reject the proposed transfer. A simple majority shall determine approval or rejection.

(4) The ~~((state board))~~ superintendent of public instruction may establish rules limiting the frequency of petitions that may be filed pertaining to territory included in whole or in part in a previous petition.

(5) Upon receipt of the petition, the educational service district superintendent shall notify in writing the affected districts that:

(a) Each school district board of directors, whether or not initiating a proposed transfer of territory, is required to enter into negotiations with the affected district or districts;

(b) In the case of a citizen-initiated petition, the affected districts must negotiate on the entire proposed transfer of territory;

(c) The districts have ninety calendar days in which to agree to the proposed transfer of territory;

(d) The districts may request and shall be granted by the educational service district superintendent one thirty-day extension to try to reach agreement; and

(e) Any district involved in the negotiations may at any time during the ninety-day period notify the educational service district superintendent in writing that agreement will not be possible.

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(6) If the negotiating school boards cannot come to agreement about the proposed transfer of territory, the educational service district superintendent, if requested by the affected districts, shall appoint a mediator. The mediator has thirty days to work with the affected school districts to see if an agreement can be reached on the proposed transfer of territory.

(7) If the affected school districts cannot come to agreement about the proposed transfer of territory, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, either district may file with the educational service district superintendent a written request for a hearing by the regional committee.

(8) If the affected school districts cannot come to agreement about the proposed transfer of territory initiated by citizen petition, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, the district in which the citizens who filed the petition reside shall file with the educational service district superintendent a written request for a hearing by the regional committee, unless a majority of the citizen petitioners request otherwise.

(9) Upon receipt of a notice under subsection (7) or (8) of this section, the educational service district superintendent shall notify the chair of the regional committee in writing within ten days.

(10) Costs incurred by school districts under this section shall be reimbursed by the state from such funds as are appropriated for this purpose.

**Sec. 503.** RCW 28A.315.205 and 2003 c 413 s 1 are each amended to read as follows:

(1) The chair of the regional committee shall schedule a hearing on the proposed transfer of territory at a location in the educational service district within sixty calendar days of being notified under RCW 28A.315.195 (7) or (8).

(2) Within thirty calendar days of the hearing under subsection (1) of this section, or final hearing if more than one is held by the committee, the committee shall issue its written findings and decision to approve or disapprove the proposed transfer of territory. The educational service district superintendent shall transmit a copy of the committee's decision to the superintendents of the affected school districts within ten calendar days.

(3) In carrying out the purposes of RCW 28A.315.015 and in making decisions as authorized under RCW 28A.315.095(1), the regional committee shall base its judgment upon whether and to the extent the proposed change in school district organization complies with RCW 28A.315.015(2) and rules adopted by the ~~((state board))~~ superintendent of public instruction under chapter 34.05 RCW.

(4) ~~((State board))~~ The rules under subsection (3) of this section shall provide for giving consideration to all of the following:

(a) Student educational opportunities as measured by the percentage of students performing at each level of the statewide mandated assessments and data regarding student attendance, graduation, and dropout rates;

(b) The safety and welfare of pupils. For the purposes of this subsection, "safety" means freedom or protection from danger, injury, or damage and "welfare" means a positive condition or influence regarding health, character, and well-being;

(c) The history and relationship of the property affected to the students and communities affected, including, for example, inclusion within a single school district, for school attendance and corresponding tax support purposes, of entire master planned communities that were or are to be developed pursuant to an integrated commercial and residential development plan with over one thousand dwelling units;

(d) Whether or not geographic accessibility warrants a favorable consideration of a recommended change in school district organization, including remoteness or isolation of places of residence and time required to travel to and from school; and

(e) All funding sources of the affected districts, equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per pupil valuation when all funding sources are considered, improvement in the economies in the administration and operation of schools, and the extent the proposed change would potentially reduce or increase the individual and aggregate transportation costs of the affected school districts.

(5)(a)(i) A petitioner or school district may appeal a decision by the regional committee to the ~~((state board))~~ superintendent of public instruction based on the claim that the regional committee failed to follow the applicable statutory and regulatory procedures or acted in an arbitrary and capricious manner. Any such appeal shall be based on the record and the appeal must be filed within thirty days of the final decision of the regional committee. The appeal shall be heard and determined by an administrative law judge in the office of administrative hearings, based on the standards in (a)(ii) of this subsection.

(ii) If the ~~((state board))~~ administrative law judge finds that all applicable procedures were not followed or that the regional committee acted in an arbitrary and capricious manner, ~~((the))~~ the administrative law judge shall refer the matter back to the regional committee with an explanation of ~~((the board's))~~ his or her findings. The regional committee shall rehear the proposal.

(iii) If the ~~((state board))~~ administrative law judge finds that all applicable procedures were followed or that the regional committee did not act in an arbitrary and capricious manner, depending on the appeal, the educational service district shall be notified and directed to implement the changes.

(b) Any school district or citizen petitioner affected by a final decision of the regional committee may seek judicial review of the committee's decision in accordance with RCW 34.05.570.

**Sec. 504.** RCW 28A.315.015 and 1999 c 315 s 101 are each amended to read as follows:

(1) It is the purpose of this chapter to:

(a) Incorporate into a single, comprehensive, school district organization law all essential provisions governing:

(i) The formation and establishment of new school districts;

(ii) The alteration of the boundaries of existing districts; and

(iii) The adjustment of the assets and liabilities of school districts when changes are made under this chapter; and

(b) Establish methods and procedures whereby changes in the school district system may be brought about by the people concerned and affected.

(2) It is the state's policy that decisions on proposed changes in school district organization should be made, whenever possible, by negotiated agreement between the affected school districts. If the districts cannot agree, the decision shall be made by the regional committees on school district organization,

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based on the committees' best judgment, taking into consideration the following factors and factors under RCW 28A.315.205:

(a) A balance of local petition requests and the needs of the statewide community at large in a manner that advances the best interest of public education in the affected school districts and communities, the educational service district, and the state;

(b) Responsibly serving all of the affected citizens and students by contributing to logical service boundaries and recognizing a changing economic pattern within the educational service districts of the state;

(c) Enhancing the educational opportunities of pupils in the territory by reducing existing disparities among the affected school districts' ability to provide operating and capital funds through an equitable adjustment of the assets and liabilities of the affected districts;

(d) Promoting a wiser use of public funds through improvement in the school district system of the educational service districts and the state; and

(e) Other criteria or considerations as may be established in rule by the ~~((state board of education))~~ superintendent of public instruction.

(3) It is neither the intent nor purpose of this chapter to apply to organizational changes and the procedure therefor relating to capital fund aid by nonhigh school districts as provided for in chapter 28A.540 RCW.

**Sec. 505.** RCW 28A.315.025 and 1990 c 33 s 293 are each amended to read as follows:

As used in this chapter:

(1) "Change in the organization and extent of school districts" means the formation and establishment of new school districts, the dissolution of existing school districts, the alteration of the boundaries of existing school districts, or all of them.

(2) "Regional committee" means the regional committee on school district organization created by this chapter.

(3) ~~("State board" means the state board of education.~~

~~(4))~~ "School district" means the territory under the jurisdiction of a single governing board designated and referred to as the board of directors.

~~((5))~~ (4) "Educational service district superintendent" means the educational service district superintendent as provided for in RCW 28A.310.170 or his or her designee.

**Sec. 506.** RCW 28A.315.055 and 1999 c 315 s 203 are each amended to read as follows:

In case the boundaries of any of the school districts are conflicting or incorrectly described, the educational service district board of directors, after due notice and a public hearing, shall change, harmonize, and describe them and shall so certify, with a complete transcript of boundaries of all districts affected, such action to the ~~((state board))~~ superintendent of public instruction for ~~((its))~~ approval or revision. Upon receipt of notification of ~~((state board))~~ action by the superintendent of public instruction, the educational service district superintendent shall transmit to the county legislative authority of the county or counties in which the affected districts are located a complete transcript of the boundaries of all districts affected.

**Sec. 507.** RCW 28A.315.085 and 2005 c 497 s 405 are each amended to read as follows:

(1) The superintendent of public instruction shall furnish ~~((to the state board and))~~ to regional committees the services of employed personnel and the materials and supplies necessary to

enable them to perform the duties imposed upon them by this chapter ~~((and))~~. Members shall be reimbursed ((the members thereof)) for expenses necessarily incurred by them in the performance of their duties ~~((such reimbursement for regional committee members to be))~~ in accordance with RCW 28A.315.155 ~~((and such reimbursement for state board members to be in accordance with RCW 28A.305.011))~~.

(2) Costs that may be incurred by an educational service district in association with school district negotiations under RCW 28A.315.195 and supporting the regional committee under RCW 28A.315.205 shall be reimbursed by the state from such funds as are appropriated for these purposes.

**Sec. 508.** RCW 28A.315.125 and 1993 c 416 s 2 are each amended to read as follows:

The members of each regional committee shall be elected in the following manner:

(1) On or before the 25th day of September, 1994, and not later than the 25th day of September of every subsequent even-numbered year, each superintendent of an educational service district shall call an election to be held in each educational service district within which resides a member of a regional committee whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in the educational service district. Such notice shall include instructions, and the rules ~~((and regulations))~~ established by the ~~((state board of education))~~ superintendent of public instruction for the conduct of the election. The ~~((state board of education))~~ superintendent of public instruction is ~~((hereby))~~ empowered to adopt rules pursuant to chapter 34.05 RCW which establish standards and procedures which the ~~((state board))~~ superintendent deems necessary to conduct elections pursuant to this section; to conduct run-off elections in the event an election for a position is indecisive; and to decide run-off elections which result in tie votes, in a fair and orderly manner.

(2) Candidates for membership on a regional committee shall file a declaration of candidacy with the superintendent of the educational service district wherein they reside. Declarations of candidacy may be filed by person or by mail not earlier than the 1st day of October, and not later than the 15th day of October of each even-numbered year. The superintendent may not accept any declaration of candidacy that is not on file in his or her office or not postmarked before the 16th day of October, or if not postmarked or the postmark is not legible, if received by mail after the 20th day of October of each even-numbered year.

(3) Each member of the regional committee shall be elected by a majority of the votes cast for all candidates for the position by the members of the boards of directors of school districts in the educational service district. All votes shall be cast by mail ballot addressed to the superintendent of the educational service district wherein the school director resides. No votes shall be accepted for counting if postmarked after the 16th day of November or if not postmarked or the postmark is not legible, if received by mail after the 21st day of November of each even-numbered year. An election board comprised of three persons appointed by the board of the educational service district shall count and tally the votes not later than the 25th day of November or the next business day if the 25th falls on a Saturday, Sunday, or legal holiday of each even-numbered year. Each vote cast by a school director shall be recorded as one vote. Within ten days following the count of votes, the

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educational service district superintendent shall certify to the superintendent of public instruction the name or names of the person(s) elected to be members of the regional committee.

(4) In the event of a change in the number of educational service districts or in the number of educational service district board members pursuant to chapter 28A.310 RCW a new regional committee shall be elected for each affected educational service district at the next election conducted pursuant to this section. Those persons who were serving on a regional committee within an educational service district affected by a change in the number of districts or board members shall continue to constitute the regional committee for the educational service district within which they are registered to vote until the majority of a new board has been elected and certified.

(5) No member of a regional committee shall continue to serve thereon if he or she ceases to be a registered voter of the educational service district board member district or if he or she is absent from three consecutive meetings of the committee without an excuse acceptable to the committee.

**Sec. 509.** RCW 28A.315.185 and 1999 c 315 s 303 are each amended to read as follows:

To the extent funds are appropriated, the superintendent of public instruction, in cooperation with the educational service districts and the Washington state school directors' association, shall conduct an annual training meeting for the regional committees, ~~((state board members;))~~ educational service district superintendents, and local school district superintendents and boards of directors. Training may also be provided upon request.

## PART 6 EDUCATIONAL SERVICE DISTRICTS

**Sec. 601.** RCW 28A.305.210 and 2005 c 518 s 913 are each amended to read as follows:

(1) ~~((The state board of education, by rule or regulation, may require the assistance of educational service district boards and/or superintendents in the performance of any duty, authority, or power imposed upon or granted to the state board of education by law, upon such terms and conditions as the state board of education shall establish. Such authority to assist the state board of education shall be limited to the service function of information collection and dissemination and the attestation to the accuracy and completeness of submitted information.~~

~~—(2))~~ During the 2005-2007 biennium until the effective date of this act, educational service districts may, at the request of the state board of education, receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education postsite visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

(2) This section expires July 1, 2007.

**Sec. 602.** RCW 28A.310.080 and 1977 ex.s. c 283 s 15 are each amended to read as follows:

~~((On or before the twenty-fifth day of August, 1978, and))~~ Not later than the twenty-fifth day of August of every ~~((subsequent))~~ even-numbered year, the ~~((secretary to the state board of education))~~ superintendent of public instruction shall call an election to be held in each educational service district

within which resides a member of the board of the educational service district whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in such educational service district. Such notice shall include instructions~~((;))~~ and rules~~((, and regulations))~~ established by the ~~((state board of education))~~ superintendent of public instruction for the conduct of the election.

**Sec. 603.** RCW 28A.310.030 and 1990 c 33 s 271 are each amended to read as follows:

Except as otherwise provided in this chapter, in each educational service district there shall be an educational service district board consisting of seven members elected by the school directors of the educational service district, one from each of seven educational service district board-member districts. Board-member districts in districts reorganized under RCW 28A.310.020, or as provided for in RCW 28A.310.120 and under this section, shall be initially determined by the state board of education. If a reorganization pursuant to RCW 28A.310.020 places the residence of a board member into another or newly created educational service district, such member shall serve on the board of the educational service district of residence and at the next election called by the ~~((secretary to the state board of education))~~ superintendent of public instruction pursuant to RCW 28A.310.080 a new seven member board shall be elected. If the redrawing of board-member district boundaries pursuant to this chapter shall cause the resident board-member district of two or more board members to coincide, such board members shall continue to serve on the board and at the next election called by the ~~((secretary to the state board of education))~~ superintendent of public instruction a new board shall be elected. The board-member districts shall be arranged so far as practicable on a basis of equal population, with consideration being given existing board members of existing educational service district boards. Each educational service district board member shall be elected by the school directors of each school district within the educational service district. Beginning in 1971 and every ten years thereafter, educational service district boards shall review and, if necessary, shall change the boundaries of board-member districts so as to provide so far as practicable equal representation according to population of such board-member districts and to conform to school district boundary changes: PROVIDED, That all board-member district boundaries, to the extent necessary to conform with this chapter, shall be immediately redrawn for the purposes of the next election called by the ~~((secretary to the state board of education))~~ superintendent of public instruction following any reorganization pursuant to this chapter. Such district board, if failing to make the necessary changes prior to June 1<sup>st</sup> of the appropriate year, shall refer for settlement questions on board-member district boundaries to the ~~((state board of education))~~ office of the superintendent of public instruction, which, after a public hearing, shall decide such questions.

**Sec. 604.** RCW 28A.310.050 and 1977 ex.s. c 283 s 19 are each amended to read as follows:

Any educational service district board may elect by resolution of the board to increase the board member size to nine board members. In such case positions number eight and nine shall be filled at the next election called by the ~~((secretary to the state board of education))~~ superintendent of public instruction, position numbered eight to be for a term of two

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years, position numbered nine to be for a term of four years. Thereafter the terms for such positions shall be for four years.

**Sec. 605.** RCW 28A.310.060 and 1977 ex.s. c 283 s 20 are each amended to read as follows:

The term of every educational service district board member shall begin on the second Monday in January next following the election at which he or she was elected: PROVIDED, That a person elected to less than a full term pursuant to this section shall take office as soon as the election returns have been certified and he or she has qualified. In the event of a vacancy in the board from any cause, such vacancy shall be filled by appointment of a person from the same board-member district by the educational service district board. In the event that there are more than three vacancies in a seven-member board or four vacancies in a nine-member board, the ~~((state board of education))~~ superintendent of public instruction shall fill by appointment sufficient vacancies so that there shall be a quorum of the board serving. Each appointed board member shall serve until his or her successor has been elected at the next election called by the ~~((secretary to the state board of education))~~ superintendent of public instruction and has qualified.

**Sec. 606.** RCW 28A.310.090 and 1977 ex.s. c 283 s 16 are each amended to read as follows:

Candidates for membership on an educational service district board shall file declarations of candidacy with the ~~((secretary to the state board of education))~~ superintendent of public instruction on forms prepared by the ~~((secretary))~~ superintendent. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, nor later than the sixteenth day of September. The ~~((secretary to the state board of education))~~ superintendent may not accept any declaration of candidacy that is not on file in his or her office or is not postmarked before the seventeenth day of September.

**Sec. 607.** RCW 28A.310.100 and 1980 c 179 s 7 are each amended to read as follows:

Each member of an educational service district board shall be elected by a majority of the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the ~~((secretary to the state board of education))~~ superintendent of public instruction and no votes shall be accepted for counting if postmarked after the sixteenth day of October or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of October following the call of the election. The ~~((secretary to the state board of education))~~ superintendent of public instruction and an election board comprised of three persons appointed by the ~~((state board of education))~~ superintendent shall count and tally the votes not later than the twenty-fifth day of October in the following manner: Each vote cast by a school director shall be accorded as one vote. If no candidate receives a majority of the votes cast, then, not later than the first day of November, the ~~((secretary to the state board of education))~~ superintendent of public instruction shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of votes at any such second election shall be declared elected. In the event of a

tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the ~~((secretary to the state board of education))~~ superintendent of public instruction. Within ten days following the count of votes in an election at which a member of an educational service district board is elected, the ~~((secretary to the state board of education))~~ superintendent of public instruction shall certify to the county auditor of the headquarters county of the educational service district the name or names of the persons elected to be members of the educational service district board.

**Sec. 608.** RCW 28A.310.140 and 1990 c 33 s 274 are each amended to read as follows:

Every school district must be included entirely within a single educational service district. If the boundaries of any school district within an educational service district are changed in any manner so as to extend the school district beyond the boundaries of that educational service district, the ~~((state board))~~ superintendent of public instruction shall change the boundaries of the educational service districts so affected in a manner consistent with the purposes of RCW 28A.310.010 and this section.

**Sec. 609.** RCW 28A.310.150 and 1990 c 33 s 275 are each amended to read as follows:

Every candidate for membership on a educational service district board shall be a registered voter and a resident of the board-member district for which such candidate files. On or before the date for taking office, every member shall make an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of the office according to the best of such member's ability. The members of the board shall not be required to give bond unless so directed by the ~~((state board of education))~~ superintendent of public instruction. At the first meeting of newly elected members and after the qualification for office of the newly elected members, each educational service district board shall reorganize by electing a chair and a vice chair. A majority of all of the members of the board shall constitute a quorum.

**Sec. 610.** RCW 28A.310.200 and 2001 c 143 s 1 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Approve the budgets of the educational service district in accordance with the procedures provided for in this chapter~~(-)~~;

(2) Meet regularly according to the schedule adopted at the organization meeting and in special session upon the call of the chair or a majority of the board~~(-)~~;

(3) Approve the selection of educational service district personnel and clerical staff as provided in RCW 28A.310.230~~(-)~~;

(4) Fix the amount of and approve the bonds for those educational service district employees designated by the board as being in need of bonding~~(-)~~;

(5) Keep in the educational service district office a full and correct transcript of the boundaries of each school district within the educational service district~~(-)~~;

(6) Acquire by borrowing funds or by purchase, lease, devise, bequest, and gift and otherwise contract for real and personal property necessary for the operation of the educational service district and to the execution of the duties of the board and superintendent thereof and sell, lease, or otherwise dispose

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of that property not necessary for district purposes. No real property shall be acquired or alienated without the prior approval of the ~~((state board of education))~~ superintendent of public instruction and the acquisition or alienation of all such property shall be subject to such provisions as the ~~((board))~~ superintendent may establish. When borrowing funds for the purpose of acquiring property, the educational service district board shall pledge as collateral the property to be acquired. Borrowing shall be evidenced by a note or other instrument between the district and the lender(⁂);

(7) Under RCW 28A.310.010, upon the written request of the board of directors of a local school district or districts served by the educational service district, the educational service district board of directors may provide cooperative and informational services not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that support the education of preschool through twelfth grade students in the public schools or that support the effective, efficient, or safe management and operation of the school district or districts served by the educational service district(⁂);

(8) Adopt such bylaws and rules ~~((and regulations))~~ for its own operation as it deems necessary or appropriate(⁂); and

(9) Enter into contracts, including contracts with common and educational service districts and the school for the deaf and the school for the blind for the joint financing of cooperative service programs conducted pursuant to RCW 28A.310.180(3), and employ consultants and legal counsel relating to any of the duties, functions, and powers of the educational service districts.

**Sec. 611.** RCW 28A.310.310 and 1990 c 33 s 284 are each amended to read as follows:

The educational service district board shall designate the headquarters office of the educational service district. Educational service districts shall provide for their own office space, heating, contents insurance, electricity, and custodial services, which may be obtained through contracting with any board of county commissioners. Official records of the educational service district board and superintendent, including each of the county superintendents abolished by chapter 176, Laws of 1969 ex. sess., shall be kept by the educational service district superintendent. Whenever the boundaries of any of the educational service districts are reorganized pursuant to RCW 28A.310.020, the ~~((state board of education))~~ superintendent of public instruction shall supervise the transferral of such records so that each educational service district superintendent shall receive those records relating to school districts within the appropriate educational service district.

**Sec. 612.** RCW 28A.323.020 and 1985 c 385 s 25 are each amended to read as follows:

The duties in this chapter imposed upon and required to be performed by a regional committee and by an educational service district superintendent in connection with a change in the organization and extent of school districts and/or with the adjustment of the assets and liabilities of school districts and with all matters related to such change or adjustment whenever territory lying in a single educational service district is involved shall be performed jointly by the regional committees and by the superintendents of the several educational service districts as required whenever territory lying in more than one educational service district is involved in a proposed change in the organization and extent of school districts: PROVIDED, That a regional committee may designate three of its members, or two

of its members and the educational service district superintendent, as a subcommittee to serve in lieu of the whole committee, but action by a subcommittee shall not be binding unless approved by a majority of the regional committee. Proposals for changes in the organization and extent of school districts and proposed terms of adjustment of assets and liabilities thus prepared and approved shall be submitted to the ~~((state board))~~ superintendent of public instruction by the regional committee of the educational service district in which is located the part of the proposed or enlarged district having the largest number of common school pupils residing therein.

**Sec. 613.** RCW 28A.323.040 and 1973 c 47 s 3 are each amended to read as follows:

For all purposes essential to the maintenance, operation, and administration of the schools of a district, including the apportionment of current state and county school funds, the county in which a joint school district shall be considered as belonging shall be as designated by the ~~((state board of education))~~ superintendent of public instruction. Prior to making such designation, the ~~((state board of education))~~ superintendent of public instruction shall hold at least one public hearing on the matter, at which time the recommendation of the joint school district shall be presented and, in addition to such recommendation, the ~~((state board))~~ superintendent shall consider the following prior to its designation:

- (1) Service needs of such district;
- (2) Availability of services;
- (3) Geographic location of district and servicing agencies; and
- (4) Relationship to contiguous school districts.

**Sec. 614.** RCW 29A.24.070 and 2005 c 221 s 1 are each amended to read as follows:

Declarations of candidacy shall be filed with the following filing officers:

(1) The secretary of state for declarations of candidacy for statewide offices, United States senate, and United States house of representatives;

(2) The secretary of state for declarations of candidacy for the state legislature, the court of appeals, and the superior court when the candidate is seeking office in a district comprised of voters from two or more counties. The secretary of state and the county auditor may accept declarations of candidacy for candidates for the state legislature, the court of appeals, and the superior court when the candidate is seeking office in a district comprised of voters from one county;

(3) The county auditor for all other offices. For any nonpartisan office, other than judicial offices and school director in joint districts, where voters from a district comprising more than one county vote upon the candidates, a declaration of candidacy shall be filed with the county auditor of the county in which a majority of the registered voters of the district reside. For school directors in joint school districts, the declaration of candidacy shall be filed with the county auditor of the county designated by the ~~((state board of education))~~ superintendent of public instruction as the county to which the joint school district is considered as belonging under RCW 28A.323.040;

(4) For all other purposes of this title, a declaration of candidacy for the state legislature, the court of appeals, and the superior court filed with the secretary of state shall be deemed to have been filed with the county auditor when the candidate is seeking office in a district composed of voters from one county.



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Each official with whom declarations of candidacy are filed under this section, within one business day following the closing of the applicable filing period, shall transmit to the public disclosure commission the information required in RCW 29A.24.031 (1) through (4) for each declaration of candidacy filed in his or her office during such filing period or a list containing the name of each candidate who files such a declaration in his or her office during such filing period together with a precise identification of the position sought by each such candidate and the date on which each such declaration was filed. Such official, within three days following his or her receipt of any letter withdrawing a person's name as a candidate, shall also forward a copy of such withdrawal letter to the public disclosure commission.

**Sec. 615.** RCW 84.09.037 and 1990 c 33 s 597 are each amended to read as follows:

Each school district affected by a transfer of territory from one school district to another school district under chapter 28A.315 RCW shall retain its preexisting boundaries for the purpose of the collection of excess tax levies authorized under RCW 84.52.053 before the effective date of the transfer, for such tax collection years and for such excess tax levies as the ~~((state board of education))~~ superintendent of public instruction may approve and order that the transferred territory shall either be subject to or relieved of such excess levies, as the case may be. For the purpose of all other excess tax levies previously authorized under chapter 84.52 RCW and all excess tax levies authorized under RCW 84.52.053 subsequent to the effective date of a transfer of territory, the boundaries of the affected school districts shall be modified to recognize the transfer of territory subject to RCW 84.09.030.

## PART 7 STUDENTS

**Sec. 701.** RCW 28A.305.160 and 1996 c 321 s 2 are each amended to read as follows:

(1) The ~~((state board of education))~~ superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the ~~((state board))~~ superintendent of public instruction deems the interest of students to be adequately protected. When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ten consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion.

(2) Short-term suspension procedures may be used for suspensions of students up to and including, ten consecutive school days.

**Sec. 702.** RCW 28A.150.300 and 1993 c 68 s 1 are each amended to read as follows:

The use of corporal punishment in the common schools is prohibited. The ~~((state board of education, in consultation with~~

~~the))~~ superintendent of public instruction~~((s))~~ shall develop and adopt a policy prohibiting the use of corporal punishment in the common schools. The policy shall be adopted ~~((by the state board of education no later than February 1, 1994,))~~ and ~~((shall take effect))~~ implemented in all school districts ~~((September 1, 1994))~~.

**Sec. 703.** RCW 28A.225.160 and 1999 c 348 s 5 are each amended to read as follows:

Except as otherwise provided by law, it is the general policy of the state that the common schools shall be open to the admission of all persons who are five years of age and less than twenty-one years residing in that school district. Except as otherwise provided by law or rules adopted by the ~~((state board of education))~~ superintendent of public instruction, districts may establish uniform entry qualifications, including but not limited to birth date requirements, for admission to kindergarten and first grade programs of the common schools. Such rules may provide for exceptions based upon the ability, or the need, or both, of an individual student. For the purpose of complying with any rule adopted by the ~~((state board of education which))~~ superintendent of public instruction that authorizes a preadmission screening process as a prerequisite to granting exceptions to the uniform entry qualifications, a school district may collect fees to cover expenses incurred in the administration of any preadmission screening process: PROVIDED, That in so establishing such fee or fees, the district shall adopt regulations for waiving and reducing such fees in the cases of those persons whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees.

**NEW SECTION. Sec. 704.** A new section is added to chapter 28A.300 RCW to read as follows:

The superintendent of public instruction shall adopt rules relating to pupil tests and records.

**Sec. 705.** RCW 28A.300.150 and 1994 c 245 s 8 are each amended to read as follows:

The superintendent of public instruction shall collect and disseminate to school districts information on child abuse and neglect prevention curriculum and shall adopt rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools. The superintendent of public instruction and the departments of social and health services and community, trade, and economic development shall share relevant information.

**Sec. 706.** RCW 28A.600.020 and 1997 c 266 s 11 are each amended to read as follows:

(1) The rules adopted pursuant to RCW 28A.600.010 shall be interpreted to ~~((insure))~~ ensure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day, or up to the following two days, or until the principal or designee and teacher have conferred, whichever occurs first. Except in emergency circumstances, the teacher first must attempt one or more alternative forms of corrective action. In no event without the consent of the teacher may an excluded

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student return to the class during the balance of that class or activity period or up to the following two days, or until the principal or his or her designee and the teacher have conferred.

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students. The procedures must be consistent with the rules of the ~~((state board of education))~~ superintendent of public instruction and must provide for early involvement of parents in attempts to improve the student's behavior.

(4) The procedures shall assure, pursuant to RCW 28A.400.110, that all staff work cooperatively toward consistent enforcement of proper student behavior throughout each school as well as within each classroom.

(5) A principal shall consider imposing long-term suspension or expulsion as a sanction when deciding the appropriate disciplinary action for a student who, after July 27, 1997:

(a) Engages in two or more violations within a three-year period of RCW 9A.46.120, 28A.320.135, 28A.600.455, 28A.600.460, 28A.635.020, 28A.600.020, 28A.635.060, 9.41.280, or 28A.320.140; or

(b) Engages in one or more of the offenses listed in RCW 13.04.155.

The principal shall communicate the disciplinary action taken by the principal to the school personnel who referred the student to the principal for disciplinary action.

**Sec. 707.** RCW 28A.600.030 and 1990 c 33 s 498 are each amended to read as follows:

Each school district board of directors may establish student grading policies which permit teachers to consider a student's attendance in determining the student's overall grade or deciding whether the student should be granted or denied credit. Such policies shall take into consideration the circumstances pertaining to the student's inability to attend school. However, no policy shall be adopted whereby a grade shall be reduced or credit shall be denied for disciplinary reasons only, rather than for academic reasons, unless due process of law is provided as set forth by the ~~((state board of education))~~ superintendent of public instruction under RCW 28A.305.160 (as recodified by this act).

**NEW SECTION. Sec. 708.** RCW 28A.305.160 is recodified as a new section in chapter 28A.600 RCW.

## PART 8 TRANSFER OF PROFESSIONAL EDUCATOR STANDARDS BOARD DUTIES

**Sec. 801.** RCW 18.35.020 and 2005 c 45 s 2 are each amended to read as follows:

(1) No person shall engage in the fitting and dispensing of hearing instruments or imply or represent that he or she is engaged in the fitting and dispensing of hearing instruments unless he or she is a licensed hearing instrument fitter/dispenser or a licensed audiologist or holds an interim permit issued by the department as provided in this chapter and is an owner or employee of an establishment that is bonded as provided by RCW 18.35.240. The owner or manager of an establishment that dispenses hearing instruments is responsible under this chapter for all transactions made in the establishment name or conducted on its premises by agents or persons employed by the establishment engaged in fitting and dispensing of hearing instruments. Every establishment that fits and dispenses shall have in its employ at least one licensed hearing instrument fitter/dispenser or licensed audiologist at all times, and shall annually submit proof that all testing equipment at that establishment that is required by the board to be calibrated has been properly calibrated.

(2) Effective January 1, 2003, no person shall engage in the practice of audiology or imply or represent that he or she is engaged in the practice of audiology unless he or she is a licensed audiologist or holds an audiology interim permit issued by the department as provided in this chapter. Audiologists who are certified as educational staff associates by the ~~((state board of education))~~ Washington professional educator standards board are excluded unless they elect to become licensed under this chapter. However, a person certified by the state board of education as an educational staff associate who practices outside the school setting must be a licensed audiologist.

(3) Effective January 1, 2003, no person shall engage in the practice of speech-language pathology or imply or represent that he or she is engaged in the practice of speech-language pathology unless he or she is a licensed speech-language pathologist or holds a speech-language pathology interim permit issued by the department as provided in this chapter. Speech-language pathologists who are certified as educational staff associates by the state board of education are excluded unless they elect to become licensed under this chapter. However, a person certified by the state board of education as an educational staff associate who practices outside the school setting must be a licensed speech-language pathologist.

**Sec. 802.** RCW 18.35.195 and 2005 c 45 s 4 are each amended to read as follows:

(1) This chapter shall not apply to military or federal government employees.

(2) This chapter does not prohibit or regulate:

(a) Fitting or dispensing by students enrolled in a board-approved program who are directly supervised by a licensed hearing instrument fitter/dispenser, a licensed audiologist under the provisions of this chapter, or an instructor at a two-year hearing instrument fitter/dispenser degree program that is approved by the board;

(b) Hearing instrument fitter/dispensers, speech-language pathologists, or audiologists of other states, territories, or countries, or the District of Columbia while appearing as clinicians of bona fide educational seminars sponsored by speech-language pathology, audiology, hearing instrument fitter/dispenser, medical, or other healing art professional associations so long as such activities do not go beyond the scope of practice defined by this chapter; and

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(c) The practice of audiology or speech-language pathology by persons certified by the ~~((state board of education))~~ Washington professional educator standards board as educational staff associates, except for those persons electing to be licensed under this chapter. However, a person certified by the ~~((state))~~ board ~~((of education))~~ as an educational staff associate who practices outside the school setting must be a licensed audiologist or licensed speech-language pathologist.

**Sec. 803.** RCW 18.83.200 and 1986 c 27 s 10 are each amended to read as follows:

This chapter shall not apply to:

(1) Any person teaching, lecturing, consulting, or engaging in research in psychology but only insofar as such activities are performed as a part of or are dependent upon a position in a college or university in the state of Washington.

(2) Any person who holds a valid school psychologist credential from the Washington ~~((state board of education))~~ professional educator standards board but only when such a person is practicing psychology in the course of his or her employment.

(3) Any person employed by a local, state, or federal government agency whose psychologists must qualify for employment under federal or state certification or civil service regulations; but only at those times when that person is carrying out the functions of his or her employment.

(4) Any person who must qualify under the employment requirements of a business or industry and who is employed by a business or industry which is not engaged in offering psychological services to the public, but only when such person is carrying out the functions of his or her employment: PROVIDED, That no person exempt from licensing under this subsection shall engage in the clinical practice of psychology.

(5) Any person who is a student of psychology, psychological intern, or resident in psychology preparing for the profession of psychology under supervision in a training institution or facilities and who is designated by the title such as "psychological trainee," "psychology student," which thereby indicates his or her training status.

(6) Any person who has received a doctoral degree from an accredited institution of higher learning with an adequate major in sociology or social psychology as determined by the board and who has passed comprehensive examinations in the field of social psychology as part of the requirements for the doctoral degree. Such persons may use the title "social psychologist" provided that they file a statement of their education with the board.

**Sec. 804.** RCW 28A.625.360 and 1990 1st ex.s. c 10 s 2 are each amended to read as follows:

(1) The ~~((state board of education))~~ professional educator standards board shall establish an annual award program for excellence in teacher preparation to recognize higher education teacher educators for their leadership, contributions, and commitment to education.

(2) The program shall recognize annually one teacher preparation faculty member from one of the teacher preparation programs approved by the ~~((state board of education))~~ professional educator standards board.

**Sec. 805.** RCW 28A.225.330 and 1999 c 198 s 3 are each amended to read as follows:

(1) When enrolling a student who has attended school in another school district, the school enrolling the student may

request the parent and the student to briefly indicate in writing whether or not the student has:

(a) Any history of placement in special educational programs;

(b) Any past, current, or pending disciplinary action;

(c) Any history of violent behavior, or behavior listed in RCW 13.04.155;

(d) Any unpaid fines or fees imposed by other schools; and

(e) Any health conditions affecting the student's educational needs.

(2) The school enrolling the student shall request the school the student previously attended to send the student's permanent record including records of disciplinary action, history of violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance. If the student has not paid a fine or fee under RCW 28A.635.060, or tuition, fees, or fines at approved private schools the school may withhold the student's official transcript, but shall transmit information about the student's academic performance, special placement, immunization records, records of disciplinary action, and history of violent behavior or behavior listed in RCW 13.04.155. If the official transcript is not sent due to unpaid tuition, fees, or fines, the enrolling school shall notify both the student and parent or guardian that the official transcript will not be sent until the obligation is met, and failure to have an official transcript may result in exclusion from extracurricular activities or failure to graduate.

(3) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request and the records shall be sent as soon as possible. Any school district or district employee who releases the information in compliance with this section is immune from civil liability for damages unless it is shown that the school district employee acted with gross negligence or in bad faith. The ~~((state board of education))~~ professional educator standards board shall provide by rule for the discipline under chapter 28A.410 RCW of a school principal or other chief administrator of a public school building who fails to make a good faith effort to assure compliance with this subsection.

(4) Any school district or district employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.

(5) When a school receives information under this section or RCW 13.40.215 that a student has a history of disciplinary actions, criminal or violent behavior, or other behavior that indicates the student could be a threat to the safety of educational staff or other students, the school shall provide this information to the student's teachers and security personnel.

**Sec. 806.** RCW 28A.405.110 and 1985 c 420 s 1 are each amended to read as follows:

The legislature recognizes the importance of teachers in the educational system. Teachers are the fundamental element in assuring a quality education for the state's and the nation's children. Teachers, through their direct contact with children, have a great impact on the development of the child. The legislature finds that this important role of the teacher requires an assurance that teachers are as successful as possible in attaining the goal of a well-educated society. The legislature finds, therefore, that the evaluation of those persons seeking to enter the teaching profession is no less important than the

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evaluation of those persons currently teaching. The evaluation of persons seeking teaching credentials should be strenuous while making accommodations uniquely appropriate to the applicants. Strenuous teacher training and preparation should be complemented by examinations of prospective teachers prior to candidates being granted official certification by the ~~((state board of education))~~ professional educator standards board. Teacher preparation program entrance evaluations, teacher training, teacher preparation program exit examinations, official certification, in-service training, and ongoing evaluations of individual progress and professional growth are all part of developing and maintaining a strong precertification and postcertification professional education system.

The legislature further finds that an evaluation system for teachers has the following elements, goals, and objectives: (1) An evaluation system must be meaningful, helpful, and objective; (2) an evaluation system must encourage improvements in teaching skills, techniques, and abilities by identifying areas needing improvement; (3) an evaluation system must provide a mechanism to make meaningful distinctions among teachers and to acknowledge, recognize, and encourage superior teaching performance; and (4) an evaluation system must encourage respect in the evaluation process by the persons conducting the evaluations and the persons subject to the evaluations through recognizing the importance of objective standards and minimizing subjectivity.

**Sec. 807.** RCW 28A.415.010 and 1991 c 285 s 1 are each amended to read as follows:

It shall be the responsibility of each educational service district board to establish a center for the improvement of teaching. The center shall administer, coordinate, and act as fiscal agent for such programs related to the recruitment and training of certificated and classified K-12 education personnel as may be delegated to the center by the superintendent of public instruction under RCW 28A.310.470(~~or the state board of education under RCW 28A.310.480~~). To assist in these activities, each educational service district board shall establish an improvement of teaching coordinating council to include, at a minimum, representatives as specified in RCW 28A.415.040. An existing in-service training task force, established pursuant to RCW 28A.415.040, may serve as the improvement of teaching coordinating council. The educational service district board shall ensure coordination of programs established pursuant to RCW 28A.415.030, 28A.410.060, and 28A.415.250.

The educational service district board may arrange each year for the holding of one or more teachers' institutes and/or workshops for professional staff preparation and in-service training in such manner and at such time as the board believes will be of benefit to the teachers and other professional staff of school districts within the educational service district and shall comply with rules ~~((and regulations of the state board of education))~~ of the professional educator standards board pursuant to RCW 28A.410.060 or the superintendent of public instruction ~~((or state board of education))~~ pursuant to RCW 28A.415.250. The board may provide such additional means of teacher and other professional staff preparation and in-service training as it may deem necessary or appropriate and there shall be a proper charge against the educational service district general expense fund when approved by the educational service district board.

Educational service district boards of contiguous educational service districts, by mutual arrangements, may hold joint institutes and/or workshops, the expenses to be shared in proportion to the numbers of certificated personnel as shown by the last annual reports of the educational service districts holding such joint institutes or workshops.

In local school districts employing more than one hundred teachers and other professional staff, the school district superintendent may hold a teachers' institute of one or more days in such district, said institute when so held by the school district superintendent to be in all respects governed by the provisions of this title and ~~((state board of education))~~ rules ~~((and regulations))~~ relating to teachers' institutes held by educational service district superintendents.

**Sec. 808.** RCW 28A.415.020 and 1995 c 284 s 2 are each amended to read as follows:

(1) Certificated personnel shall receive for each ten clock hours of approved in-service training attended the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(2) Certificated personnel shall receive for each ten clock hours of approved continuing education earned, as continuing education is defined by rule adopted by the ~~((state board of education))~~ professional educator standards board, the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(3) Certificated personnel shall receive for each forty clock hours of participation in an approved internship with a business, an industry, or government, as an internship is defined by rule of the ~~((state board of education))~~ professional educator standards board in accordance with RCW 28A.415.025, the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(4) An approved in-service training program shall be a program approved by a school district board of directors, which meet standards adopted by the ~~((state board of education))~~ professional educator standards board, and the development of said program has been participated in by an in-service training task force whose membership is the same as provided under RCW 28A.415.040, or a program offered by an education agency approved to provide in-service for the purposes of continuing education as provided for under rules adopted by the ~~((state board of education))~~ professional educator standards board, or both.

(5) Clock hours eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee as described in subsections (1) and (2) of this section, shall be those hours acquired after August 31, 1987. Clock hours eligible for application to the salary schedule as described in subsection (3) of this section shall be those hours acquired after December 31, 1995.

**Sec. 809.** RCW 28A.415.024 and 2005 c 461 s 1 are each amended to read as follows:

(1) All credits earned in furtherance of degrees earned by certificated staff, that are used to increase earnings on the salary schedule consistent with RCW 28A.415.023, must be obtained from an educational institution accredited by an accrediting association recognized by rule of the ~~((state board of education))~~ professional educator standards board.

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(2) The office of the superintendent of public instruction shall verify for school districts the accreditation status of educational institutions granting degrees that are used by certificated staff to increase earnings on the salary schedule consistent with RCW 28A.415.023.

(3) The office of the superintendent of public instruction shall provide school districts with training and additional resources to ensure they can verify that degrees earned by certificated staff, that are used to increase earnings on the salary schedule consistent with RCW 28A.415.023, are obtained from an educational institution accredited by an accrediting association recognized by rule of the ~~((state board of education))~~ professional educator standards board.

(4)(a) No school district may submit degree information before there has been verification of accreditation under subsection (3) of this section.

(b) Certificated staff who submit degrees received from an unaccredited educational institution for the purposes of receiving a salary increase shall be fined three hundred dollars. The fine shall be paid to the office of the superintendent of public instruction and used for costs of administering this section.

(c) In addition to the fine in (b) of this subsection, certificated staff who receive salary increases based upon degrees earned from educational institutions that have been verified to be unaccredited must reimburse the district for any compensation received based on these degrees.

**Sec. 810.** RCW 28A.415.025 and 1995 c 284 s 3 are each amended to read as follows:

The ~~((state board of education))~~ professional educator standards board shall establish rules for awarding clock hours for participation of certificated personnel in internships with business, industry, or government. To receive clock hours for an internship, the individual must demonstrate that the internship will provide beneficial skills and knowledge in an area directly related to his or her current assignment, or to his or her assignment for the following school year. An individual may not receive more than the equivalent of two college quarter credits for internships during a calendar-year period. The total number of credits for internships that an individual may earn to advance on the salary schedule developed by the legislative evaluation and accountability program committee or its successor agency is limited to the equivalent of fifteen college quarter credits.

**Sec. 811.** RCW 28A.415.105 and 1995 c 335 s 403 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.415.125 through 28A.415.140.

(1) "Cooperating organizations" means that at least one school district, one college or university, and one educational service district are involved jointly with the development of a student teaching center.

(2) "Cooperating teacher" means a teacher who holds a continuing certificate and supervises and coaches a student teacher.

(3) "Field experience" means opportunities for observation, tutoring, microteaching, extended practicums, and clinical and laboratory experiences which do not fall within the meaning of student teaching.

(4) "School setting" means a classroom in a public, common school in the state of Washington.

(5) "Student teacher" means a candidate for initial teacher certification who is in a ~~((state board of education-approved))~~ professional educator standards board-approved, or regionally or nationally accredited teacher preparation program in a school setting as part of the field-based component of their preparation program.

(6) "Student teaching" means the full quarter or semester in a school setting during which the student teacher observes the cooperating teacher, participates in instructional activities, and assumes both part-time and full-time teaching responsibilities under the supervision of the cooperating teacher.

(7) "Student teaching center" means the program established to provide student teachers in a geographic region of the state with special support and training as part of their teacher preparation program.

(8) "Supervisor or university supervisor" means the regular or adjunct faculty member, or college or university-approved designee, who assists and supervises the work of cooperating teachers and student teachers.

**Sec. 812.** RCW 28A.415.125 and 1991 c 258 s 6 are each amended to read as follows:

The ~~((state board of education))~~ professional educator standards board, from appropriated funds, shall establish a network of student teaching centers to support the continuing development of the field-based component of teacher preparation programs. The purpose of the training centers is to:

(1) Expand opportunities for student teacher placements in school districts statewide, with an emphasis on those populations and locations that are unserved or underserved;

(2) Provide cooperating teachers for all student teachers during their student internship for up to two academic quarters;

(3) Enhance the student teaching component of teacher preparation programs, including a placement of student teachers in special education and multi-ethnic school settings; and

(4) Expand access to each other and opportunities for collaboration in teacher education between colleges and universities and school districts.

**Sec. 813.** RCW 28A.415.130 and 1991 c 258 s 7 are each amended to read as follows:

Funds for the student teaching centers shall be allocated by the superintendent of public instruction among the educational service district regions on the basis of student teaching placements. The fiscal agent for each center shall be either an educational service district or a state institution of higher education. Prospective fiscal agents shall document to the ~~((state board of education))~~ professional educator standards board the following information:

(1) The existing or proposed center was developed jointly through a process including participation by at least one school district, one college or university, and one educational service district;

(2) Primary administration for each center shall be the responsibility of one or more of the cooperating organizations;

(3) Assurance that the training center program provides appropriate and necessary training in observation, supervision, and assistance skills and techniques for:

(a) Cooperating teachers;

(b) Other school building personnel; and

(c) School district employees.

**Sec. 814.** RCW 28A.415.145 and 1991 c 258 s 10 are each amended to read as follows:

The (~~state board of education~~) professional educator standards board and the superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the purposes of RCW 28A.415.100 through 28A.415.140.

**Sec. 815.** RCW 28A.630.400 and 1995 c 335 s 202 and 1995 c 77 s 27 are each reenacted and amended to read as follows:

(1) The (~~state board of education~~) professional educator standards board and the state board for community and technical colleges, in consultation with the superintendent of public instruction, the higher education coordinating board, the state apprenticeship training council, and community colleges, shall adopt rules as necessary under chapter 34.05 RCW to implement the paraeducator associate of arts degree.

(2) As used in this section, a "paraeducator" is an individual who has completed an associate of arts degree for a paraeducator. The paraeducator may be hired by a school district to assist certificated instructional staff in the direct instruction of children in small and large groups, individualized instruction, testing of children, recordkeeping, and preparation of materials. The paraeducator shall work under the direction of instructional certificated staff.

(3) The training program for a paraeducator associate of arts degree shall include, but is not limited to, the general requirements for receipt of an associate of arts degree and training in the areas of introduction to childhood education, orientation to children with disabilities, fundamentals of childhood education, creative activities for children, instructional materials for children, fine art experiences for children, the psychology of learning, introduction to education, child health and safety, child development and guidance, first aid, and a practicum in a school setting.

(4) Consideration shall be given to transferability of credit earned in this program to teacher preparation programs at colleges and universities.

**Sec. 816.** RCW 28A.660.020 and 2004 c 23 s 2 are each amended to read as follows:

(1) Each district or consortia of school districts applying for the alternative route certification program shall submit a proposal to the Washington professional educator standards board specifying:

(a) The route or routes the partnership program intends to offer and a detailed description of how the routes will be structured and operated by the partnership;

(b) The number of candidates that will be enrolled per route;

(c) An identification, indication of commitment, and description of the role of approved teacher preparation programs that are partnering with the district or consortia of districts;

(d) An assurance of district provision of adequate training for mentor teachers either through participation in a state mentor training academy or district-provided training that meets state-established mentor-training standards specific to the mentoring of alternative route candidates;

(e) An assurance that significant time will be provided for mentor teachers to spend with the alternative route teacher candidates throughout the internship. Partnerships must provide each candidate with intensive classroom mentoring until such time as the candidate demonstrates the competency necessary to manage the classroom with less intensive supervision and guidance from a mentor;

(f) A description of the rigorous screening process for applicants to alternative route programs, including entry

requirements specific to each route, as provided in RCW 28A.660.040; and

(g) The design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by comparing the candidate's prior experience and coursework with the state's new performance-based standards for residency certification and adjusting any requirements accordingly. The plan may include the following components:

(i) A minimum of one-half of a school year, and an additional significant amount of time if necessary, of intensive mentorship, starting with full-time mentoring and progressing to increasingly less intensive monitoring and assistance as the intern demonstrates the skills necessary to take over the classroom with less intensive support. For route one and two candidates, before the supervision is diminished, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the higher education teacher preparation program must both agree that the teacher candidate is ready to manage the classroom with less intensive supervision. For route three and four candidates, the mentor of the teacher candidate shall make the decision;

(ii) Identification of performance indicators based on the knowledge and skills standards required for residency certification by the (~~state board of education~~) Washington professional educator standards board;

(iii) Identification of benchmarks that will indicate when the standard is met for all performance indicators;

(iv) A description of strategies for assessing candidate performance on the benchmarks;

(v) Identification of one or more tools to be used to assess a candidate's performance once the candidate has been in the classroom for about one-half of a school year; and

(vi) A description of the criteria that would result in residency certification after about one-half of a school year but before the end of the program.

(2) To the extent funds are appropriated for this purpose, districts may apply for program funds to pay stipends to trained mentor teachers of interns during the mentored internship. The per intern amount of mentor stipend shall not exceed five hundred dollars.

**Sec. 817.** RCW 28A.660.040 and 2004 c 23 s 4 are each amended to read as follows:

Partnership grants funded under this chapter shall operate one to four specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. For route one and two candidates, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the higher education teacher preparation program must both agree that the teacher candidate has successfully completed the program. For route three and four candidates, the mentor of the teacher candidate shall make the determination that the candidate has successfully completed the program.

(1) Partnership grant programs seeking funds to operate route one programs shall enroll currently employed classified instructional employees with transferable associate degrees seeking residency teacher certification with endorsements in special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in two years or less, including a

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mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including three years of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam, when available; and

(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

(2) Partnership grant programs seeking funds to operate route two programs shall enroll currently employed classified staff with baccalaureate degrees seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational service district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including three years of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the content test, once the state content test is available;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam, when available.

(3) Partnership grant programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application. When selecting candidates for certification through route three, districts shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. For route three only, the districts may include additional candidates in nonshortage subject areas if the candidates are seeking endorsements with a secondary grade level designation as defined by rule by the ~~((state board of education))~~ professional educator standards board. The districts shall disclose to candidates in nonshortage subject areas available information on the demand in those subject areas. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) Five years' experience in the work force;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(c) Successful completion of the content test, once the state content test is available;

(d) External validation of qualifications, including demonstrated successful experience with students or children,

such as ~~((reference reference))~~ reference letters and letters of support from previous employers;

(e) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(f) Successful passage of statewide basic skills exams, when available.

(4) Partnership grant programs seeking funds to operate route four programs shall enroll individuals with baccalaureate degrees, who are employed in the district at the time of application, or who hold conditional teaching certificates or emergency substitute certificates. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) Five years' experience in the work force;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(c) Successful completion of the content test, once the state content test is available;

(d) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(e) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(f) Successful passage of statewide basic skills exams, when available.

**Sec. 818.** RCW 28A.690.020 and 1990 c 33 s 546 are each amended to read as follows:

The "designated state official" for this state under Article II of RCW 28A.690.010 shall be the superintendent of public instruction, who shall be the compact administrator and who shall have power to ~~((promulgate))~~ adopt rules to carry out the terms of this compact. The superintendent of public instruction shall enter into contracts pursuant to Article III of the Agreement only with the approval of the specific text thereof by the ~~((state board of education))~~ professional educator standards board.

**Sec. 819.** RCW 28A.300.050 and 1990 c 33 s 252 are each amended to read as follows:

The superintendent of public instruction shall provide technical assistance to the ~~((state board of education))~~ professional educator standards board in the conduct of the activities described in ~~((sections 202 through 232 of this act))~~ RCW 28A.410.040 and 28A.410.050.

**Sec. 820.** RCW 28A.625.370 and 1990 1st ex.s. c 10 s 3 are each amended to read as follows:

The award for the teacher educator shall include:

(1) A certificate presented to the teacher educator by the governor, the ~~((president of the state board of education))~~ chair of the professional educator standards board, and the superintendent of public instruction at a public ceremony; and

(2) A grant to the professional education advisory board of the institution from which the teacher educator is selected, which grant shall not exceed two thousand five hundred dollars and which grant shall be awarded under RCW 28A.625.390.

**Sec. 821.** RCW 28A.625.380 and 1990 1st ex.s. c 10 s 4 are each amended to read as follows:

The ~~((state board of education))~~ professional educator standards board shall adopt rules under chapter 34.05 RCW to

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carry out the purposes of RCW 28A.625.360 through 28A.625.390. These rules shall include establishing the selection criteria for the Washington award for excellence in teacher preparation. The ~~((state)) board ((of education))~~ is encouraged to consult with teacher educators, deans, and professional education advisory board members in developing the selection criteria. The criteria shall include any role performed by nominees relative to implementing innovative developments by the nominee's teacher preparation program and efforts the nominee has made to assist in communicating with legislators, common school teachers and administrators, and others about the nominee's teacher preparation program.

**Sec. 822.** RCW 28A.625.390 and 1990 1st ex.s. c 10 s 5 are each amended to read as follows:

The professional education advisory board for the institution from which the teacher educator has been selected to receive an award shall be eligible to apply for an educational grant as provided under RCW 28A.625.370. The ~~((state board of education))~~ professional educator standards board shall award the grant after the ~~((state))~~ board has approved the grant application as long as the written grant application is submitted to the ~~((state))~~ board within one year after the award is received by the teacher educator. The grant application shall identify the educational purpose toward which the grant shall be used.

**Sec. 823.** RCW 28B.10.710 and 1993 c 77 s 1 are each amended to read as follows:

There shall be a one quarter or semester course in either Washington state history and government, or Pacific Northwest history and government in the curriculum of all teachers' colleges and teachers' courses in all institutions of higher education. No person shall be graduated from any of said schools without completing said course of study, unless otherwise determined by the ~~((state board of education))~~ Washington professional educator standards board. Any course in Washington state or Pacific Northwest history and government used to fulfill this requirement shall include information on the culture, history, and government of the American Indian peoples who were the first human inhabitants of the state and the region.

**Sec. 824.** RCW 28B.35.120 and 2004 c 275 s 54 are each amended to read as follows:

In addition to any other powers and duties prescribed by law, each board of trustees of the respective regional universities:

(1) Shall have full control of the regional university and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the regional university, his assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the regional university, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the ~~((state))~~ Washington professional educator standards board ~~((of education))~~ shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) Establish such divisions, schools or departments necessary to carry out the purposes of the regional university and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the regional university.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the regional university.

(8) May establish, lease, operate, equip and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, to enter into such contracts as the trustees deem essential to regional university purposes.

(10) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the regional university programs; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

(11) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.76.230, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the regional university.

**Sec. 825.** RCW 28B.40.120 and 2004 c 275 s 56 are each amended to read as follows:

In addition to any other powers and duties prescribed by law, the board of trustees of The Evergreen State College:

(1) Shall have full control of the state college and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the state college, his assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the state college, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the ~~((state board of education))~~ Washington professional educator standards board shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) Establish such divisions, schools or departments necessary to carry out the purposes of the college and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the college.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the college.



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(8) May establish, lease, operate, equip and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, to enter into such contracts as the trustees deem essential to college purposes.

(10) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the college programs; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

(11) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.76.230, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the college.

**Sec. 826.** RCW 43.43.832 and 2005 c 421 s 2 are each amended to read as follows:

(1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol identification and criminal history section shall disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's record for convictions as defined in chapter 10.97 RCW.

(2) The legislature also finds that the ~~((state board of education))~~ Washington professional educator standards board may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the secretary of the department of social and health services must establish rules and set standards to require specific action when considering the information listed in subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or

treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers are paid by the state or providers are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(5) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

(6)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842,

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subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(g) For the purposes of this subsection, "health care facility" means a nursing home licensed under chapter 18.51 RCW, a boarding home licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(7) If a federal bureau of investigation check is required in addition to the state background check by the department of social and health services, an applicant who is not disqualified based on the results of the state background check shall be eligible for a one hundred twenty day provisional approval to hire, pending the outcome of the federal bureau of investigation check. The department may extend the provisional approval until receipt of the federal bureau of investigation check. If the federal bureau of investigation check disqualifies an applicant, the department shall notify the requestor that the provisional approval to hire is withdrawn and the applicant may be terminated.

**Sec. 827.** RCW 43.43.840 and 2005 c 421 s 6 are each amended to read as follows:

When a business or an organization terminates, fires, dismisses, fails to renew the contract, or permits the resignation of an employee because of crimes against children or other persons or because of crimes relating to the financial exploitation of a vulnerable adult, and if that employee is employed in a position requiring a certificate or license issued by a licensing agency such as the ~~((state board of education))~~ Washington professional educator standards board, the business or organization shall notify the licensing agency of such termination of employment.

**Sec. 828.** RCW 43.43.845 and 2005 c 421 s 7 and 2005 c 237 s 1 are each reenacted and amended to read as follows:

(1) Upon a guilty plea or conviction of a person of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW, promoting prostitution of a minor under chapter 9A.88 RCW, or the sale or purchase of a minor child under RCW 9A.64.030, the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall transmit that information to the superintendent of public instruction. It shall be the duty of the superintendent of public instruction to identify whether the person holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district, and provide this information to

the ~~((state board of education))~~ Washington professional educator standards board and the school district employing the individual who pled guilty or was convicted of the crimes identified in subsection (1) of this section.

**Sec. 829.** RCW 72.40.028 and 1985 c 378 s 18 are each amended to read as follows:

All teachers at the state school for the deaf and the state school for the blind shall meet all certification requirements and the programs shall meet all accreditation requirements and conform to the standards defined by law or by rule of the ~~((state board of education))~~ Washington professional educator standards board or the office of the state superintendent of public instruction. The superintendents, by rule, may adopt additional educational standards for their respective schools. Salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located. The superintendents may provide for provisional certification for teachers in their respective schools including certification for emergency, temporary, substitute, or provisional duty.

## PART 9 OTHER DUTIES

**Sec. 901.** RCW 28A.600.010 and 1997 c 265 s 4 are each amended to read as follows:

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Enforce the rules prescribed by the superintendent of public instruction ~~((and the state board of education))~~ for the government of schools, pupils, and certificated employees.

(2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules regarding pupil conduct, discipline, and rights, including but not limited to short-term suspensions as referred to in RCW 28A.305.160 (as recodified by this act) and suspensions in excess of ten consecutive days. Such rules shall not be inconsistent with any of the following: Federal statutes and regulations, state statutes, common law, and the rules of the superintendent of public instruction ~~((and the state board of education))~~. The board's rules shall include such substantive and procedural due process guarantees as prescribed by the ~~((state board of education))~~ superintendent of public instruction under RCW 28A.305.160 (as recodified by this act). ~~((Commencing with the 1976-77 school year,))~~ When such rules are made available to each pupil, teacher, and parent, they shall be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, the superintendent of public instruction, ~~((and state board of education rules))~~ and the rules ~~((and regulations))~~ of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

(3) Suspend, expel, or discipline pupils in accordance with RCW 28A.305.160 (as recodified by this act).

**NEW SECTION. Sec. 902.** A new section is added to chapter 28A.405 RCW to read as follows:

Each school district board of directors shall adopt a policy regarding the presence at their respective schools of teachers and other certificated personnel before the opening of school in

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the morning and after the closing of school in the afternoon or evening. The board of directors shall make the policy available to parents and the public through the school district report card and other means of communication.

**Sec. 903.** RCW 28A.225.280 and 1990 1st ex.s. c 9 s 206 are each amended to read as follows:

Eligibility of transfer students under RCW 28A.225.220 and 28A.225.225 for participation in extracurricular activities shall be subject to rules adopted by the Washington interscholastic activities association ~~((as authorized by the state board of education)).~~

**Sec. 904.** RCW 28A.600.200 and 1990 c 33 s 502 are each amended to read as follows:

Each school district board of directors is hereby granted and shall exercise the authority to control, supervise and regulate the conduct of interschool athletic activities and other interschool extracurricular activities of an athletic, cultural, social or recreational nature for students of the district. A board of directors may delegate control, supervision and regulation of any such activity to the Washington interscholastic activities association or any other voluntary nonprofit entity and compensate such entity for services provided, subject to the following conditions:

~~(1) ((The voluntary nonprofit entity shall submit an annual report to the state board of education of student appeal determinations, assets, and financial receipts and disbursements at such time and in such detail as the state board shall establish by rule;~~

~~—(2))~~ (2) The voluntary nonprofit entity shall not discriminate in connection with employment or membership upon its governing board, or otherwise in connection with any function it performs, on the basis of race, creed, national origin, sex or marital status;

~~((3))~~ (2) Any rules and policies applied by the voluntary nonprofit entity which govern student participation in any interschool activity shall be written ~~((and subject to the annual review and approval of the state board of education at such time as it shall establish;~~

~~—(4) All amendments and repeals of such rules and policies shall be subject to the review and approval of the state board);~~ ~~((and~~

~~—(5))~~ (3) Such rules and policies shall provide for notice of the reasons and a fair opportunity to contest such reasons prior to a final determination to reject a student's request to participate in or to continue in an interschool activity. Any such decision shall be considered a decision of the school district conducting the activity in which the student seeks to participate or was participating and may be appealed pursuant to RCW 28A.645.010 through 28A.645.030; and

(4) Beginning the effective date of this section and until July 1, 2007, that any decision by the Washington interscholastic activities association may be appealed to the office of the superintendent of public instruction. After July 1, 2007, decisions by the Washington interscholastic activities association addressing only academic issues may be appealed to the office of the superintendent of public instruction. The office of the superintendent shall adopt rules to implement this subsection.

**NEW SECTION. Sec. 905.** A new section is added to chapter 28A.600 RCW to read as follows:

By July 1, 2007, the Washington interscholastic activities association shall establish a nine-person appeals board to address nonacademic appeals. The board shall be comprised of

active members of school district boards of directors, and retired or inactive coaches. The retired or inactive coaches shall be representative of the multilevels of competition, the various school classifications, and the activity districts of the Washington interscholastic activities association. The board shall begin hearing nonacademic appeals by July 1, 2007. No board member may participate in the appeal process if the member was involved in the activity that was the basis of the appeal or involved in the decision of the association, either directly or indirectly.

**Sec. 906.** RCW 28A.160.210 and 1989 c 178 s 20 are each amended to read as follows:

In addition to other powers and duties, the ~~((state board of education))~~ superintendent of public instruction shall adopt rules ~~((and regulations))~~ governing the training and qualifications of school bus drivers. Such rules ~~((and regulations))~~ shall be designed to insure that persons will not be employed to operate school buses unless they possess such physical health and driving skills as are necessary to safely operate school buses: PROVIDED, That such rules ~~((and regulations))~~ shall insure that school bus drivers are provided a due process hearing before any certification required by such rules ~~((and regulations))~~ is cancelled: PROVIDED FURTHER, That such rules ~~((and regulations))~~ shall not conflict with the authority of the department of licensing to license school bus drivers in accordance with chapter 46.25 RCW. The ~~((state board of education))~~ superintendent of public instruction may obtain a copy of the driving record, as maintained by the department of licensing, for consideration when evaluating a school bus driver's driving skills.

**Sec. 907.** RCW 28A.160.100 and 1990 c 33 s 138 are each amended to read as follows:

In addition to the authority otherwise provided in RCW 28A.160.010 through 28A.160.120 to school districts for the transportation of persons, whether school children, school personnel, or otherwise, any school district authorized to use school buses and drivers hired by the district for the transportation of school children to and from a school activity, along with such school employees as necessary for the supervision, shall, if such school activity be an interscholastic activity, be authorized to transport members of the general public to such event and utilize the school district's buses, transportation equipment and facilities, and employees therefor: PROVIDED, That provision shall be made for the reimbursement and payment to the school district by such members of the general public of not less than the district's actual costs and the reasonable value of the use of the district's buses and facilities provided in connection with such transportation: PROVIDED FURTHER, That wherever private transportation certified or licensed by the utilities and transportation commission or public transportation is reasonably available ~~((as determined by rule and regulation of the state board of education)),~~ this section shall not apply.

**Sec. 908.** RCW 28A.210.070 and 1990 c 33 s 191 are each amended to read as follows:

As used in RCW 28A.210.060 through 28A.210.170:

(1) "Chief administrator" shall mean the person with the authority and responsibility for the immediate supervision of the operation of a school or day care center as defined in this section or, in the alternative, such other person as may hereafter be designated in writing for the purposes of RCW 28A.210.060 through 28A.210.170 by the statutory or corporate board of

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directors of the school district, school, or day care center or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district, school or day care center.

(2) "Full immunization" shall mean immunization against certain vaccine-preventable diseases in accordance with schedules and with immunizing agents approved by the state board of health.

(3) "Local health department" shall mean the city, town, county, district or combined city-county health department, board of health, or health officer which provides public health services.

(4) "School" shall mean and include each building, facility, and location at or within which any or all portions of a preschool, kindergarten and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.305.130~~((6))~~, 28A.195.010 through 28A.195.050, and 28A.410.120.

(5) "Day care center" shall mean an agency which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW.

(6) "Child" shall mean any person, regardless of age, in attendance at a public or private school or a licensed day care center.

**Sec. 909.** RCW 28A.210.120 and 1990 c 33 s 196 are each amended to read as follows:

It shall be the duty of the chief administrator of every public and private school and day care center to prohibit the further presence at the school or day care center for any and all purposes of each child for whom proof of immunization, certification of exemption, or proof of compliance with an approved schedule of immunization has not been provided in accordance with RCW 28A.210.080 and to continue to prohibit the child's presence until such proof of immunization, certification of exemption, or approved schedule has been provided. The exclusion of a child from a school shall be accomplished in accordance with rules of the office of the superintendent, in consultation with the state board of ((education)) health. The exclusion of a child from a day care center shall be accomplished in accordance with rules of the department of social and health services. Prior to the exclusion of a child, each school or day care center shall provide written notice to the parent(s) or legal guardian(s) of each child or to the adult(s) in loco parentis to each child, who is not in compliance with the requirements of RCW 28A.210.080. The notice shall fully inform such person(s) of the following: (1) The requirements established by and pursuant to RCW 28A.210.060 through 28A.210.170; (2) the fact that the child will be prohibited from further attendance at the school unless RCW 28A.210.080 is complied with; (3) such procedural due process rights as are hereafter established pursuant to RCW 28A.210.160 and/or 28A.210.170, as appropriate; and (4) the immunization services that are available from or through the local health department and other public agencies.

**Sec. 910.** RCW 28A.210.160 and 1990 c 33 s 199 are each amended to read as follows:

The superintendent of public instruction with regard to public schools and the state board of education with regard to

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private schools, in consultation with the state board of ((education)) health, shall ((and is hereby empowered to)) each adopt rules pursuant to chapter 34.05 RCW ((which)) that establish the procedural and substantive due process requirements governing the exclusion of children from ((public and private)) schools pursuant to RCW 28A.210.120.

**Sec. 911.** RCW 28A.210.320 and 2002 c 101 s 1 are each amended to read as follows:

(1) The attendance of every child at every public school in the state shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school of a medication or treatment order addressing any life-threatening health condition that the child has that may require medical services to be performed at the school. Once such an order has been presented, the child shall be allowed to attend school.

(2) The chief administrator of every public school shall prohibit the further presence at the school for any and all purposes of each child for whom a medication or treatment order has not been provided in accordance with this section if the child has a life-threatening health condition that may require medical services to be performed at the school and shall continue to prohibit the child's presence until such order has been provided. The exclusion of a child from a school shall be accomplished in accordance with rules of the state board of education. Before excluding a child, each school shall provide written notice to the parents or legal guardians of each child or to the adults in loco parentis to each child, who is not in compliance with the requirements of this section. The notice shall include, but not be limited to, the following: (a) The requirements established by this section; (b) the fact that the child will be prohibited from further attendance at the school unless this section is complied with; and (c) such procedural due process rights as are established pursuant to this section.

(3) The ((state board of education)) superintendent of public instruction in consultation with the state board of health shall adopt rules under chapter 34.05 RCW that establish the procedural and substantive due process requirements governing the exclusion of children from public schools under this section. The rules shall include any requirements under applicable federal laws.

(4) As used in this section, "life-threatening condition" means a health condition that will put the child in danger of death during the school day if a medication or treatment order and a nursing plan are not in place.

(5) As used in this section, "medication or treatment order" means the authority a registered nurse obtains under RCW 18.79.260(2).

**Sec. 912.** RCW 28A.335.100 and 1975-'76 2nd ex.s. c 23 s 1 are each amended to read as follows:

Any association established by school districts pursuant to the interlocal cooperation act, chapter 39.34 RCW for the purpose of jointly and cooperatively purchasing school supplies, materials and equipment, if otherwise authorized for school district purposes to purchase personal or real property, is ((hereby)) authorized((, subject to rules and regulations of the state board of education;)) to mortgage, or convey a purchase money security interest in real or personal property of such association of every kind, character or description whatsoever, or any interest in such personal or real property: PROVIDED, That any such association shall be prohibited from causing any creditor of the association to acquire any rights against the property, properties or assets of any of its constituent school

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districts and any creditor of such association shall be entitled to look for payment of any obligation incurred by such association solely to the assets and properties of such association.

**Sec. 913.** RCW 28A.335.120 and 2001 c 183 s 2 are each amended to read as follows:

(1) The board of directors of any school district of this state may:

(a) Sell for cash, at public or private sale, and convey by deed all interest of the district in or to any of the real property of the district which is no longer required for school purposes; and

(b) Purchase real property for the purpose of locating thereon and affixing thereto any house or houses and appurtenant buildings removed from school sites owned by the district and sell for cash, at public or private sale, and convey by deed all interest of the district in or to such acquired and improved real property.

(2) When the board of directors of any school district proposes a sale of school district real property pursuant to this section and the value of the property exceeds seventy thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be published at least once each week during two consecutive weeks in a legal newspaper with a general circulation in the area in which the school district is located. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the school district property at the place and the day and hour fixed in the notice and admit evidence offered for and against the propriety and advisability of the proposed sale.

(3) The board of directors of any school district desiring to sell surplus real property shall publish a notice in a newspaper of general circulation in the school district. School districts shall not sell the property for at least forty-five days following the publication of the newspaper notice.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the purchase of surplus real property and to have such bids considered along with all other bids.

(5) Any sale of school district real property authorized pursuant to this section shall be preceded by a market value appraisal by a professionally designated real estate appraiser as defined in RCW 74.46.020 or a general real estate appraiser certified under chapter 18.140 RCW selected by the board of directors and no sale shall take place if the sale price would be less than ninety percent of the appraisal made by the real estate appraiser: PROVIDED, That if the property has been on the market for one year or more the property may be reappraised and sold for not less than seventy-five percent of the reappraised value with the unanimous consent of the board.

(6) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded: PROVIDED, That the use of a licensed real estate broker will not eliminate the obligation of the board of directors to provide the notice described in this section: PROVIDED FURTHER, That the fee or commissions charged for any broker services shall not exceed seven percent of the resulting sale value for a single parcel: PROVIDED FURTHER, That any professionally designated real estate appraiser as defined in RCW 74.46.020 or

a general real estate appraiser certified under chapter 18.140 RCW selected by the board to appraise the market value of a parcel of property to be sold may not be a party to any contract with the school district to sell such parcel of property for a period of three years after the appraisal.

(7) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through sale on contract terms, a real estate sales contract may be executed between the district and buyer(~~(- PROVIDED, That the terms and conditions of any such sales contract must comply with rules and regulations of the state board of education, herein authorized, governing school district real property contract sales)~~).

**Sec. 914.** RCW 28A.320.240 and 1969 ex.s. c 223 s 28A.58.104 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 (~~(or regulation)~~) of the superintendent of public instruction (~~(or the state board of education)~~).

(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. 915.** RCW 28A.155.060 and 1995 c 77 s 12 are each amended to read as follows:

For the purpose of carrying out the provisions of RCW 28A.155.020 through 28A.155.050, the board of directors of every school district shall be authorized to contract with agencies approved by the (~~(state board of education)~~) superintendent of public instruction for operating special education programs for students with disabilities. Approval standards for such agencies shall conform substantially with those promulgated for approval of special education aid programs in the common schools.

**Sec. 916.** RCW 28A.600.130 and 1995 1st sp.s. c 5 s 1 are each amended to read as follows:

The higher education coordinating board shall establish a planning committee to develop criteria for screening and selection of the Washington scholars each year in accordance with RCW 28A.600.110(1). It is the intent that these criteria shall emphasize scholastic achievement but not exclude such criteria as leadership ability and community contribution in final selection procedures. The Washington scholars planning committee shall have members from selected state agencies and private organizations having an interest and responsibility in

education, including but not limited to, the (~~state board of education, the~~) office of superintendent of public instruction, the council of presidents, the state board for community and technical colleges, and the Washington friends of higher education.

**Sec. 917.** RCW 28A.650.015 and 1995 c 335 s 507 are each amended to read as follows:

(1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan shall be updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of on-line information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The (~~state board of education, the commission on student learning, the~~) department of information services, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the higher education coordinating board, the work force training and education coordinating board, and the state library.

**PART 10  
MISCELLANEOUS**

NEW SECTION. **Sec. 1001.** Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 1002.** Section 407 of this act takes effect September 1, 2009."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

**MOTION**

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Schmidt to the committee striking amendment be adopted.

On page 17, line 36, after "association", insert ". The directors shall have some experience or knowledge in school plant facility issues. One of the directors shall represent a non-high school district"

Senator McAuliffe spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and

Schmidt on page 17, line 36 to the committee striking amendment to Engrossed Second Substitute House Bill No. 3098.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning, K-12 & Higher Education as amended to Engrossed Second Substitute House Bill No. 3098.

The motion by Senator McAuliffe carried and the committee striking amendment as amended was adopted by voice vote.

**MOTION**

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

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.305.130, 28A.305.035, 28A.300.040, 28A.305.011, 28A.150.230, 28A.505.140, 28A.525.020, 28A.525.030, 28A.525.050, 28A.525.055, 28A.525.070, 28A.525.080, 28A.525.090, 28A.525.162, 28A.525.164, 28A.525.166, 28A.525.168, 28A.525.170, 28A.525.172, 28A.525.174, 28A.525.176, 28A.525.178, 28A.525.180, 28A.525.190, 28A.525.200, 28A.525.216, 28A.150.260, 28A.335.160, 28A.540.050, 28A.150.530, 28A.335.210, 28A.335.230, 28A.540.070, 39.35D.020, 39.35D.040, 39.35D.060, 79.17.100, 79.17.120, 28A.305.220, 28A.230.100, 28A.230.170, 28A.305.170, 28A.230.130, 28A.205.010, 28A.205.070, 28A.215.010, 28A.215.020, 28A.205.040, 28A.215.140, 28A.230.020, 28A.230.040, 28A.230.050, 28A.315.175, 28A.315.195, 28A.315.205, 28A.315.015, 28A.315.025, 28A.315.055, 28A.315.085, 28A.315.125, 28A.315.185, 28A.305.210, 28A.310.080, 28A.310.030, 28A.310.050, 28A.310.060, 28A.310.090, 28A.310.100, 28A.310.140, 28A.310.150, 28A.310.200, 28A.310.310, 28A.323.020, 28A.323.040, 29A.24.070, 84.09.037, 28A.305.160, 28A.150.300, 28A.225.160, 28A.300.150, 28A.600.020, 28A.600.030, 18.35.020, 18.35.195, 18.83.200, 28A.625.360, 28A.225.330, 28A.405.110, 28A.415.010, 28A.415.020, 28A.415.024, 28A.415.025, 28A.415.105, 28A.415.125, 28A.415.130, 28A.415.145, 28A.660.020, 28A.660.040, 28A.690.020, 28A.300.050, 28A.625.370, 28A.625.380, 28A.625.390, 28B.10.710, 28B.35.120, 28B.40.120, 43.43.832, 43.43.840, 72.40.028, 28A.600.010, 28A.225.280, 28A.600.200, 28A.160.210, 28A.160.100, 28A.210.070, 28A.210.120, 28A.210.160, 28A.210.320, 28A.335.100, 28A.335.120, 28A.320.240, 28A.155.060, 28A.600.130, and 28A.650.015; reenacting and amending RCW 28A.330.100, 28A.630.400, and 43.43.845; adding a new section to chapter 28A.525 RCW; adding a new section to chapter 28A.545 RCW; adding a new section to chapter 28A.230 RCW; adding new sections to chapter 28A.300 RCW; adding new sections to chapter 28A.600 RCW; adding a new section to chapter 28A.405 RCW; creating new sections; recodifying RCW 28A.305.220, 28A.305.170, and 28A.305.160; decodifying RCW 28A.525.120, 28A.525.122, 28A.525.124, 28A.525.126, 28A.525.128, 28A.525.130, 28A.525.132, 28A.525.134, 28A.525.140, 28A.525.142, 28A.525.144, 28A.525.146, 28A.525.148, 28A.525.150, 28A.525.152, 28A.525.154, 28A.525.156, 28A.525.158, 28A.525.160, and 28A.525.182; providing an effective date; and providing expiration dates."

**MOTION**

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On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 3098 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 3098 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 3098 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 11; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Fairley, Franklin, Fraser, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 34

Voting nay: Senators Benson, Carrell, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, Morton, Mulliken, Stevens and Zarelli - 11

Excused: Senators Benton, Hargrove, McCaslin and Pflug - 4

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3098 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 3266, by Representatives Rodne, Simpson, Anderson and Hudgins

Designating state route number 169 as a highway of statewide significance.

The measure was read the second time.

MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 3266 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Johnson spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3266.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3266 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles,

McAuliffe, Morton, Mulliken, Oke, Parlette, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Voting nay: Senator Poulsen - 1

Excused: Senators Benton, Hargrove, McCaslin and Pflug - 4

HOUSE BILL NO. 3266, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE JOINT MEMORIAL NO. 4038, by Representatives Hinkle, Cody and Santos

Requesting that certified diabetes educators be added as Medicare providers.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Joint Memorial No. 4038 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senators Keiser and Deccio spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Joint Memorial No. 4038.

ROLL CALL

The Secretary called the roll on the final passage of House Joint Memorial No. 4038 and the resolution passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benton, Hargrove, McCaslin and Pflug - 4

HOUSE JOINT MEMORIAL NO. 4038, having received the constitutional majority, was declared passed.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2376, by House Committee on Health Care (originally sponsored by Representatives Clibborn, Morrell, Murray, Wallace, Cody, Schual-Berke, Simpson, Green, Sells, Ormsby, Appleton, Fromhold, Hunt, Kenney, Kessler, Lantz, Miloscia, Moeller and Williams)

Repealing cost-sharing in medical programs. Revised for 1st Substitute: Prohibiting the department of social and health services from imposing premiums on children in households with income at or below two hundred percent of the federal

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poverty level.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2376 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2376.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2376 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 11; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brandland, Brown, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Thibaudeau and Weinstein - 34

Voting nay: Senators Benson, Carrell, Deccio, Hewitt, Morton, Mulliken, Parlette, Schoesler, Stevens, Swecker and Zarelli - 11

Excused: Senators Benton, Hargrove, McCaslin and Pflug - 4

SUBSTITUTE HOUSE BILL NO. 2376, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2406, by Representatives Roach and Kirby

Changing insurance statutes, generally.

The measure was read the second time.

#### MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 2406 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley, Benson and Roach spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Mulliken, Senator Parlette was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 2406.

#### ROLL CALL

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The Secretary called the roll on the final passage of House Bill No. 2406 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benton, Hargrove, McCaslin and Parlette - 4

HOUSE BILL NO. 2406, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2684, by House Committee on Appropriations (originally sponsored by Representatives Fromhold, Bailey, Conway, Lovick, Green, Sells, Kenney, Quall, Simpson, Moeller and Morrell)

Allowing vesting after five years of service in the defined benefit portion of the public employees' retirement system, the school employees' retirement system, and the teachers' retirement system plan 3.

The measure was read the second time.

#### MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2684 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Mulliken spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2684.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2684 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benton, Hargrove, McCaslin and Parlette - 4

SUBSTITUTE HOUSE BILL NO. 2684, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING



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SUBSTITUTE HOUSE BILL NO. 3150, by House Committee on Commerce & Labor (originally sponsored by Representatives Condotta, Linville, Kenney, Chase, Kessler, Conway, Holmquist, Morrell, Newhouse and Armstrong)

Concerning efforts to promote the wine industry.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 3150 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Hewitt spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3150.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3150 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benton, Hargrove, McCaslin and Parlette - 4

SUBSTITUTE HOUSE BILL NO. 3150, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2475, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Williams, Fromhold, Wood, B. Sullivan, Simpson, Sells, Ormsby and Green)

Requiring collective bargaining regarding hours of work for individual providers.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.39A.270 and 2004 c 3 s 1 are each amended to read as follows:

(1) Solely for the purposes of collective bargaining and as expressly limited under subsections (2) and (3) of this section,

the governor is the public employer, as defined in chapter 41.56 RCW, of individual providers, who, solely for the purposes of collective bargaining, are public employees as defined in chapter 41.56 RCW. To accommodate the role of the state as payor for the community-based services provided under this chapter and to ensure coordination with state employee collective bargaining under chapter 41.80 RCW and the coordination necessary to implement RCW 74.39A.300, the public employer shall be represented for bargaining purposes by the governor or the governor's designee appointed under chapter 41.80 RCW. The governor or governor's designee shall periodically consult with the authority during the collective bargaining process to allow the authority to communicate issues relating to the long-term in-home care services received by consumers. The governor or governor's designee shall include representatives of the authority on the bargaining team for all issues for which the exclusive bargaining representative requests to engage in collective bargaining under subsection (6) of this section. The authority shall work with the developmental disabilities council, the governor's committee on disability issues and employment, the state council on aging, and other consumer advocacy organizations to obtain informed input from consumers on their interests, including impacts on consumer choice, for all issues proposed for collective bargaining under subsection (6) of this section.

(2) Chapter 41.56 RCW governs the collective bargaining relationship between the governor and individual providers, except as otherwise expressly provided in this chapter and except as follows:

(a) The only unit appropriate for the purpose of collective bargaining under RCW 41.56.060 is a statewide unit of all individual providers;

(b) The showing of interest required to request an election under RCW 41.56.060 is ten percent of the unit, and any intervener seeking to appear on the ballot must make the same showing of interest;

(c) The mediation and interest arbitration provisions of RCW 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

(i) With respect to commencement of negotiations between the governor and the bargaining representative of individual providers, negotiations shall be commenced by May 1st of any year prior to the year in which an existing collective bargaining agreement expires;

(ii) With respect to factors to be taken into consideration by an interest arbitration panel, the panel shall consider the financial ability of the state to pay for the compensation and fringe benefit provisions of a collective bargaining agreement; and

(iii) The decision of the arbitration panel is not binding on the legislature and, if the legislature does not approve the request for funds necessary to implement the compensation and fringe benefit provisions of the arbitrated collective bargaining agreement, is not binding on the authority or the state;

(d) Individual providers do not have the right to strike; and

(e) Individual providers who are related to, or family members of, consumers or prospective consumers are not, for that reason, exempt from this chapter or chapter 41.56 RCW.

(3) Individual providers who are public employees solely for the purposes of collective bargaining under subsection (1) of this section are not, for that reason, employees of the state, its political subdivisions, or an area agency on aging for any

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purpose. Chapter 41.56 RCW applies only to the governance of the collective bargaining relationship between the employer and individual providers as provided in subsections (1) and (2) of this section.

(4) Consumers and prospective consumers retain the right to select, hire, supervise the work of, and terminate any individual provider providing services to them. Consumers may elect to receive long-term in-home care services from individual providers who are not referred to them by the authority.

(5) In implementing and administering this chapter, neither the authority nor any of its contractors may reduce or increase the hours of service for any consumer below or above the amount determined to be necessary under any assessment prepared by the department or an area agency on aging.

(6) Except as expressly limited in this section and RCW 74.39A.300, the wages, hours, and working conditions of individual providers are determined solely through collective bargaining as provided in this chapter. No agency or department of the state(~~(; other than the authority;))~~) may establish policies or rules governing the wages or hours of individual providers. However, this subsection does not modify:

(a) The department's authority to establish a plan of care for each consumer ((and to determine the hours)) or its core responsibility to manage long-term in-home care services under this chapter, including determination of the level of care that each consumer is eligible to receive. However, at the request of the exclusive bargaining representative, the governor or the governor's designee appointed under chapter 41.80 RCW shall engage in collective bargaining, as defined in RCW 41.56.030(4), with the exclusive bargaining representative over how the department's core responsibility affects hours of work for individual providers. This subsection shall not be interpreted to require collective bargaining over an individual consumer's plan of care;

(b) The department's authority to terminate its contracts with individual providers who are not adequately meeting the needs of a particular consumer, or to deny a contract under RCW 74.39A.095(8);

(c) The consumer's right to assign hours to one or more individual providers selected by the consumer within the maximum hours determined by his or her plan of care;

(d) The consumer's right to select, hire, terminate, supervise the work of, and determine the conditions of employment for each individual provider providing services to the consumer under this chapter;

(e) The department's obligation to comply with the federal medicaid statute and regulations and the terms of any community-based waiver granted by the federal department of health and human services and to ensure federal financial participation in the provision of the services; and

(f) The legislature's right to make programmatic modifications to the delivery of state services under this title, including standards of eligibility of consumers and individual providers participating in the programs under this title, and the nature of services provided. The governor shall not enter into, extend, or renew any agreement under this chapter that does not expressly reserve the legislative rights described in this subsection (6)(f).

(7)(a) The state, the department, the authority, the area agencies on aging, or their contractors under this chapter may not be held vicariously or jointly liable for the action or inaction

of any individual provider or prospective individual provider, whether or not that individual provider or prospective individual provider was included on the authority's referral registry or referred to a consumer or prospective consumer. The existence of a collective bargaining agreement, the placement of an individual provider on the referral registry, or the development or approval of a plan of care for a consumer who chooses to use the services of an individual provider and the provision of case management services to that consumer, by the department or an area agency on aging, does not constitute a special relationship with the consumer.

(b) The members of the board are immune from any liability resulting from implementation of this chapter.

(8) Nothing in this section affects the state's responsibility with respect to unemployment insurance for individual providers. However, individual providers are not to be considered, as a result of the state assuming this responsibility, employees of the state.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2475.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

#### MOTION

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

On page 1, line 2 of the title, after "providers;" strike the remainder of the title and insert "amending RCW 74.39A.270; and declaring an emergency."

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 2475 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2475 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2475 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 5; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller,

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Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 40

amendment was adopted by voice vote.

Voting nay: Senators Deccio, Honeyford, Morton, Mulliken and Stevens - 5

MOTION

Excused: Senators Benton, Hargrove, McCaslin and Parlette - 4

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "increasing housing development capacity; and amending RCW 43.180.160."

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2475 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

SECOND READING

On motion of Senator Fairley, the rules were suspended, Second Substitute House Bill No. 3070 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

SECOND SUBSTITUTE HOUSE BILL NO. 3070, by House Committee on Capital Budget (originally sponsored by Representatives Miloscia, Hasegawa, Chase and Santos)

Senators Fairley and Benson spoke in favor of passage of the bill.

Increasing nonprofit housing development capacity.

MOTION

The measure was read the second time.

On motion of Senator REGala, Senator Kline was excused.

MOTION

Senator Fairley moved that the following committee amendment by the Committee on Financial Institutions, Housing & Consumer Protection be not adopted.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 3070 as amended by the Senate.

Beginning on page 1, line 6, strike all of section 1

Renumber the remaining sections consecutively and correct internal references accordingly.

On page 2, line 28, strike "four" and insert "five"

Beginning on page 3, line 1, strike all of sections 3 and 4

On page 1, line 2 of the title, after "capacity;" strike the remainder of the title and insert "and amending RCW 43.180.160."

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 3070 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 36; Nays, 8; Absent, 0; Excused, 5.

The President declared the question before the Senate to be the motion by Senator Fairly to not adopt the committee amendment by the Committee on Financial Institutions, Housing & Consumer Protection to Second Substitute House Bill No. 3070.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Jacobsen, Kastama, Keiser, Kohl-Welles, McAuliffe, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 36

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

Voting nay: Senators Carrell, Hewitt, Honeyford, Johnson, Morton, Schoesler, Stevens and Zarelli - 8

MOTION

Excused: Senators Benton, Hargrove, Kline, McCaslin and Parlette - 5

Senator Fairley moved that the following striking amendment by Senators Fairley and Benson be adopted:

SECOND SUBSTITUTE HOUSE BILL NO. 3070 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Strike everything after the enacting clause and insert the following:

SECOND READING

"Sec. 1. RCW 43.180.160 and 1999 c 131 s 2 are each amended to read as follows:

The total amount of outstanding indebtedness of the commission may not exceed ((three)) five billion dollars at any time. The calculation of outstanding indebtedness shall include the initial principal amount of an issue and shall not include interest that is either currently payable or that accrues as a part of the face amount of an issue payable at maturity or earlier redemption. Outstanding indebtedness shall not include notes or bonds as to which the obligation of the commission has been satisfied and discharged by refunding or for which payment has been provided by reserves or otherwise."

HOUSE BILL NO. 2544, by Representatives P. Sullivan, Jarrett, Green, Dunshee, Upthegrove, McCoy, Ericks, Simpson, Schual-Berke, Lantz, Ormsby, Springer, Kilmer and Kagi

Authorizing project loans recommended by the public works board.

Senators Fairley and Benson spoke in favor of adoption of the striking amendment.

The measure was read the second time.

MOTION

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Fairley and Benson to Second Substitute House Bill No. 3070.

Senator Fraser moved that the following striking amendment by Senators Fraser and Brandland be adopted:

Strike everything after the enacting clause and insert the following:

The motion by Senator Fairley carried and the striking

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"NEW SECTION. Sec. 1. Pursuant to chapter 43.155 RCW, the following project loans recommended by the public works board are authorized to be made with funds appropriated from the public works assistance account:

(1) Alderwood water and wastewater district--sanitary sewer project--upgrade the picnic point wastewater treatment facility and increase the maximum month flow capacity from three million gallons per day to six million gallons per day by improving the fine screening, vortex grit removal, membrane bioreactor, and ultraviolet disinfection . . . . . \$7,000,000

(2) Arlington--sanitary sewer project--improve the solids handling capacity of the wastewater treatment plant, expand the capacity of both the solids processing and liquid treatment portions of the plant, and alter the type of treatment process . . . . . \$7,000,000

(3) Bainbridge Island--sanitary sewer project--construct an enclosed building to house the headworks equipment, construct a new building to house solid handling equipment, convert aeration for both basins from surface aeration to diffused air, add solid storage basins, upgrade two existing clarifiers and associated return activated sludge pumps, construct vactor decanting station, and replace existing electrical systems \$3,564,500

(4) Bellingham--domestic water project--remove an aging diversion dam and replace its function with a withdrawal structure built into the river that will not impede the natural flow of the river to restore runs of two endangered species to the upper reaches of the middle fork of the Nooksack river and connect it with the existing system . . . . . \$3,400,000

(5) Birch Bay water and sewer district--sanitary sewer project--replace the sanitary sewer force main from pump station number 3 to the wastewater treatment plant and divert a portion of the districts sewer flow around pump station number 4 directly to pump station number 3 resulting in a twenty-six percent increase in sanitary sewer conveyance capacity . . . . . \$2,305,625

(6) Buckley--sanitary sewer project--construction of a dewatering building to house a belt filter press sludge dewatering machine, rebuild and expand the wastewater treatment plant to provide nutrient removal and accommodate the wastewater from Rainier school and anticipated growth over the next twenty years, and construction of a gravity interceptor. Improvements to the plant include enclosed headworks with fine screens, grit removal, flow measurement and sampling, biological nutrient removal activated sludge process with new anaerobic basins, anoxic basins, and aeration basins, activated sludge clarifiers, and return sludge pumping, followed by ultraviolet light disinfection . . . . . \$7,000,000

(7) Enumclaw--sanitary sewer project--upgrade and expand the existing wastewater treatment plant including new headworks, new extended aeration activated sludge basins, new anaerobic/anoxic basins for phosphorus removal and denitrification, two additional secondary clarifiers, chemical facilities for additional phosphorus removal in the existing secondary clarifiers, sludge dewatering and stabilization facilities, enlarged laboratory area, increasing capacity to accommodate projected urban growth through 2022 \$5,700,000

(8) Everett--sanitary sewer project--limit biochemical oxygen demand loads of the wastewater flowing into the aeration ponds to less than 20,000 pounds per day by construction of a new treatment process in the wastewater stream by constructing the primary clarifiers that will feed up to 21,000,000 gallons per day to the trickling filters for additional treatment, eliminate the use of chlorine gas and replace it with a twelve percent sodium hypochlorite solution, construct a new 4.8 acre solids handling area to process biosolids, and modifications to the laboratory and operations room \$7,000,000

(9) Holmes Harbor sewer district--sanitary sewer project--modify the existing wastewater treatment plant and related systems to include 1,500,000 gallons of storage for

incompletely treated effluent, including appurtenant pumping, piping, and control systems . . . . . \$950,000

(10) King county water district number 54--domestic water project--replace and dispose of an eight-inch water distribution line and an abandoned six-inch water line as part of a project to replace a fill and box culvert with a bridge across Des Moines creek that will improve fish migration and alleviate excess pooling and flooding, provide a temporary line during construction, and install a permanent twelve-inch line under the new bridge . . . . . \$150,300

(11) Kitsap county sewer district number 7--sanitary sewer project--upgrade and add capacity to the wastewater treatment plant by adding a second aeration basin, changing the existing aeration from a floating aerator to fine bubble diffusers, add a third clarifier, change influent screening from bars to a fine screen, add a second bank of ultraviolet lights, add a third return activated sludge pump, add a second sludge digester, and construct a utility building to house the equipment . \$1,288,000

(12) Lake Stevens--sanitary sewer project--construction of a membrane bioreactor tertiary wastewater treatment plant outside the flood plain, construction of an interceptor line and pump station to intercept and redirect existing flows to the new plant, and associated easement acquisition, permit fees, construction management services, and startup and operation and maintenance manuals . . . . . \$7,000,000

(13) Lakehaven utility district--sanitary sewer project--remove/replace and/or line approximately 1,030 feet of the existing outfall pipe starting from 100 feet inland to the end of the existing outfall, and extend the existing/new outfall from the previous end point approximately 800 feet further into Puget Sound to ensure the protection of shellfish beds in the area . . . . . \$2,400,000

(14) Malaga water district--domestic water project--design and construction of two pump stations, an approximately 60,000 gallon reservoir, approximately 11,000 feet of transmission/distribution main, a pressure reducing station, and other water system appurtenances . . . . . \$1,064,950

(15) Mercer Island--sanitary sewer project--install approximately 16,000 feet of eight to sixteen-inch sewer main and 7,000 feet of six-inch side sewer laterals in Lake Washington along the north and northwest shoreline, replace and modify two pump stations, extend and connect side sewer laterals to the new main, finalize easements with approximately seventy-five property owners, install approximately ten maintenance manholes and cleanouts, and environmental mitigation . . . . . \$7,000,000

(16) Mill Creek--road project--replace existing culverts carrying Penny creek under Mill Creek Road with a new bridge structure in a different location by drilling piers along the outer edge of the alignment, installing pipe caps and precast concrete bridge deck panels, excavating under the panels, installing timber lagging as the excavation progresses, and constructing concrete walls over the lagging, reroute the streambed with some wetland mitigation work, relocate existing water line, and plugging and abandoning the existing culvert . . . . . \$921,500

(17) Mount Vernon--sanitary sewer project--construction of the phase one improvements for the wastewater treatment facility including a new pretreatment (grit and debris screening) facility, two additional primary clarifiers, upgrade of the existing aeration basins, two additional secondary clarifiers, an ultraviolet disinfection system for the effluent (replacing chlorine gas system), and an extensive odor control system . . . . . \$7,000,000

(18) Moxee--sanitary sewer project--construct approximately 13,500 feet of wastewater conveyance piping and appurtenances along state route number 24 from Moxee to Riverside Road, discharging to a new lift station owned and operated by the Terrace Heights sewer district . . . . . \$2,000,000

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(19) Mukilteo--storm sewer project--construct approximately 16,500 feet of new eighteen to forty-eight inch storm water conveyance pipeline to transfer high storm water flows from Smugglers Gulch and Big Gulch stream channels, restoring the stream channel, associated fish and wildlife habitat, and adjacent infrastructure, as well as provide mitigation for disturbed wetlands . . . . . \$3,587,200

(20) North Bend--domestic water project--drilling, testing, and development of a new municipal supply well for the perfection of a new water right application with the department of ecology to supply the city and urban growth area with needed additional water, construction of approximately 21,200 lineal foot twelve-inch diversion pipeline from the south fork Tolt river reservoir to the north fork Snoqualmie river . . . . . \$3,474,675

(21) North Bonneville--sanitary sewer project--install a new headworks screen in the existing headworks structure, install a new clarifier, including piping modifications, in the existing sewer treatment plant, and painting existing metal surfaces in the existing treatment plant unit . . . . . \$450,000

(22) Oak Harbor--domestic water project--design and construction of approximately 5,700 feet of twenty-four inch diameter ductile iron water transmission main along highway 20 between Pass Lake and Sharpe's Corner as a replacement for existing water transmission main being destroyed as a result of planned highway construction . . . . . \$2,694,500

(23) Okanogan county--sanitary sewer project--construction, right of way acquisition and engineering for gravity and pressure pipe, lift stations, telemetry, treatment plant improvements, and associated facilities, water system improvements including supply main, fire hydrants, air/vac facilities, storage, booster pumping, telemetry, and applicable appurtenances . . . . . \$7,000,000

(24) Othello--road project--reconstruct 1,850 lineal feet of arterial truck route (Broadway Avenue), to include surface, subsurface, and impacted utilities, improved to heavy truck traffic standards, retaining the existing sidewalks, curbs, and gutters . . . . . \$555,000

(25) Pullman--sanitary sewer project--construction of a new, approximately 500,000 gallon, variable volume digester at the wastewater treatment plant including site preparation, construction of the digester, necessary piping modifications, upgrades to the existing digesters as required to facilitate the new digester, and modifications to the plant's existing electrical and supervisory control system . . . . . \$1,870,000

(26) Sammamish Plateau water and sewer district--domestic water project--design and construction of a new approximately 6.2 million gallon per day water treatment facility to remove arsenic, hydrogen sulfide, iron and manganese, and silica . . . . . \$2,843,250

(27) Sedro-Woolley--sanitary sewer project--construction of approximately 29,700 lineal feet of eight to thirty-inch pipes, and the design of two sewer pump stations . . . . . \$7,000,000

(28) Stanwood--domestic water project--prepare a feasibility study, well desktop treatment study, and a preliminary engineering report to determine the most cost-effective water system improvements, the most effective well treatment methods, and outlining the principal design criteria for all planned facilities, conduct a pilot plant study to confirm effectiveness of treatment and provide/confirm design criteria, obtain all necessary permits, prepare plans, specifications, and cost estimates for all improvements, construct a new treatment plant for the removal of arsenic, manganese, and hydrogen sulfide, construct approximately 500 lineal feet of new transmission water main, and approximately 1,500 lineal feet of new distribution water mains to connect to the existing system . . . . . \$3,194,733

(29) Stanwood--sanitary sewer project--parallel existing sewer alignment with approximately 4,000 lineal feet of thirty-inch sewer pipe in the same right of way corridor as the existing

fourteen-inch interceptor and have a flow capacity of 6.5 million gallons a day sufficient to handle the projected 5.8 million gallons a day build outflow, and the replacement of the existing eight and twelve-inch water mains . . . . . \$2,031,500

(30) Tenino--sanitary sewer project--construction of a new wastewater treatment plant and collection system with a membrane bioreactor treatment plant with a capacity of 360,000 gallons per day that will produce Class A reclaimed water, and approximately 68,516 lineal feet of one and one-half to six-inch diameter pipe and 784 individual grinder pumps . . . \$7,000,000

(31) Terrace Heights sewer district--sanitary sewer project--construct a new lift station with a capacity of approximately 4,400 gallon per minute, approximately 11,700 feet of twelve-inch diameter force mains from the new lift station to the Yakima regional wastewater treatment facility, and approximately 4,200 feet of eight-inch diameter gravity sewer main . . . . . \$3,655,000

(32) Union Gap--sanitary sewer project--replace approximately 3,800 feet of sewer line, institute hydrogen sulfide control measures at the master lift station to reduce corrosion problems, complete eight sewer pipeline point repairs, replace seven manholes, install manhole shields on forty-five manholes located in areas of potential flooding, investigate sixteen side sewer connections, conduct an inflow evaluation during the next flooding event, and visually inspect previously uninspected portions of the system . . . . . \$1,037,000

(33) Val Vue sewer district--sanitary sewer project--replace approximately 11,000 linear feet of pipe and associated side sewers, construction of approximately 1,900 linear feet of replacement main line sewers, construction of approximately 1,600 linear feet of sewer main replacement, replacement of approximately 300 linear feet of main, replacement of approximately 120 side sewer stubs, and improvements to a pump station by the addition of an emergency power generator . . . . . \$3,554,700

(34) Whitworth water district number 2--domestic water project--install approximately 11,900 feet of sixteen-inch water pipe, 22,440 feet of twelve-inch water pipe, 4,140 feet of eight-inch water pipe together with valves, fire hydrants, and other appurtenances, and construct an approximately two million gallon ground level steel water reservoir, complete with access road, valving, level controls, and other appurtenances \$3,496,600

(35) Zillah--sanitary sewer project--construct wastewater facility improvements including a new screening system, construct a new aeration basin of approximately 159,000 gallons, install baffles in both clarifiers and replace the 28-year-old mechanical components of clarifier number 1, install a positive displacement pump in the aerobic digester building for automated daily sludge wasting, replace the existing ultraviolet system with a new and larger system, construct an effluent pump station to accommodate design peak hour flow, replace the submerged turbine aerators with fine bubble diffusers, and provide 480 volt service to all process electrical equipment, and eliminate dual voltage system now found at the plant . . . . . \$2,295,000

(36) Auburn--sanitary sewer project--replace approximately 13,100 linear feet of 10, 12, and 15 inch concrete pipes with 24, 27, and 36 inch sewer pipes to handle existing and future wastewater flows. Removal of eight pressure reducing valves on a water transmission line and storm system revisions \$3,500,000

(37) Battle Ground--sanitary sewer project--upgrades at Salmon Creek treatment plant to achieve added capacity and security. Construction of the new Kline sewer pump station and approximately five miles of force main system to accommodate future pumping capacity needs . . . . . \$4,000,000

(38) Bellevue--road project--improve a section of NE 24th Street including widening the roadway to add five-foot bike lanes, constructing curb, gutter, and sidewalk, and introduce calming elements. The project is designed to improve safety by

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reducing areas of conflict between vehicular and nonmotorized traffic by reducing overall speeds . . . . . \$750,000

(39) Burien--storm sewer project--construct approximately 1,450 linear feet of 30 to 42 inch and approximately 300 linear feet of 24 inch storm water trunk lines to eliminate flooding in downtown Burien during a 25-year storm event. Modify and expand the Ambaum regional detention pond to accommodate peak flows and to control the release of storm water in order to protect downstream habitat . . . . . \$1,547,000

(40) Clark public utilities--domestic water project--construct a 1,000 gallon per minute water supply well, construct and paint an approximately 300,000 gallon reservoir, install a 500 gallon per minute booster station, and replace approximately 90,000 feet of undersized and deteriorated water line. These projects will increase fire flow and generally improve the performance and reliability of the system . . . . . \$5,087,250

(41) Edmonds--road project--provide the necessary slope stability and improve the integrity of approximately 300 feet of roadway section that has been slowly moving down the hill toward a house due to slope failure . . . . . \$624,750

(42) Franklin County--road project--pave approximately 30 miles of gravel roads throughout the county to save wear and tear on the public's vehicles and savings in annual costs for maintenance . . . . . \$4,500,000

(43) Ilwaco--sanitary sewer project--replace a sewage pump station and renovate another sewage pump station, both of which are 35 years old to meet the department of ecology's requirements and save approximately \$13,000 every three years . . . . . \$237,960

(44) Lakewood--sanitary sewer project--construct three pump stations, approximately 17,200 linear feet of force main, approximately 13,500 linear feet of gravity collector pipeline, and approximately 320 side sewer stubs to eliminate septic systems in the American Lake gardens and Tillicum neighborhoods . . . . . \$5,000,000

(45) Olympus terrace sewer district--sanitary sewer project--construction of approximately 8,000 linear feet of trunk pipeline and approximately 16,500 linear feet of storm water conveyance pipeline to prevent high storm water flows from further eroding stream channels . . . . . \$7,000,000

(46) Seattle--storm sewer project--install approximately 2,860 feet of storm drain and approximately 6,800 feet of pipe to alleviate chronic flooding problems for at least 38 businesses and several residences in South Park . . . . . \$5,000,000

(47) Southwest suburban sewer district--sanitary sewer project--replace/rehabilitate approximately 16,700 linear feet of sewer mains to reduce environmental and public health issues associated with sewer backups . . . . . \$3,910,000

(48) Stevenson--domestic water project--replace a failing, unsafe, and hazardous pump station to address fire flow requirements, convert the vacated pump station into additional water reservoir storage, and install approximately 6,250 feet of transmission main to eliminate leaks . . . . . \$795,000

(49) Tacoma--domestic water project--construction of an ozonation treatment plant capable of treating approximately 168 million gallons per day that will provide disinfection and taste and odor compound control . . . . . \$7,000,000

(50) Vancouver--road project--widen approximately 5,000 linear feet of NE 138th Street to four lanes with center left turn lane, bike lanes, sidewalks, street lighting, and landscaping to increase capacity and safety, and upgrade traffic control . . . . . \$2,200,000

(51) Washougal--sanitary sewer project--replace a pump station with approximately 6,250 linear feet of force and gravity mains, extending approximately 2,200 linear feet of gravity sewer, and extension of approximately 2,000 linear feet of interceptor sewer. The improvements protect the water quality

of the Washougal River and serve the projected 20-year growth of the area . . . . . \$2,070,000

NEW SECTION. Sec. 2. For any project on the proposed public works board recommended project list in section 1 of this act that replaces a water line over a creek, and where the project need and timeline are being determined by a state agency and the city within its boundaries, the jurisdiction may be reimbursed for expenses incurred prior to the execution of the loan agreement.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senators Fraser and Brandland spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Fraser and Brandland to House Bill No. 2544.

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

MOTION

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

On page 1, line 2 of the title, after "board;" strike the remainder of the title and insert "creating new sections; and declaring an emergency."

MOTION

On motion of Senator Fraser, the rules were suspended, House Bill No. 2544 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Brandland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2544 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2544 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benton, Hargrove, McCaslin and Parlette - 4

HOUSE BILL NO. 2544 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

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SUBSTITUTE HOUSE BILL NO. 2416, by House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Kessler, Hasegawa, Hunt, Haigh, McIntire, Dunshee, B. Sullivan and Takko)

Establishing an optional state parks vehicle registration fee. Revised for 1st Substitute: Concerning state park fees.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 79A.05.070 and 2003 c 186 s 1 are each amended to read as follows:

The commission may:

(1) Make rules and regulations for the proper administration of its duties;

(2) Accept any grants of funds made with or without a matching requirement by the United States, or any agency thereof, for purposes in keeping with the purposes of this chapter; accept gifts, bequests, devises and endowments for purposes in keeping with such purposes; enter into cooperative agreements with and provide for private nonprofit groups to use state park property and facilities to raise money to contribute gifts, grants, and support to the commission for the purposes of this chapter. The commission may assist the nonprofit group in a cooperative effort by providing necessary agency personnel and services, if available. However, none of the moneys raised may inure to the benefit of the nonprofit group, except in furtherance of its purposes to benefit the commission as provided in this chapter. The agency and the private nonprofit group shall agree on the nature of any project to be supported by such gift or grant prior to the use of any agency property or facilities for raising money. Any such gifts may be in the form of recreational facilities developed or built in part or in whole for public use on agency property, provided that the facility is consistent with the purposes of the agency;

(3) Require certification by the commission of all parks and recreation workers employed in state aided or state controlled programs;

(4) Act jointly, when advisable, with the United States, any other state agencies, institutions, departments, boards, or commissions in order to carry out the objectives and responsibilities of this chapter;

(5) Grant franchises and easements for any legitimate purpose on parks or parkways, for such terms and subject to such conditions and considerations as the commission shall specify;

(6) Charge such fees for services, utilities, and use of facilities as the commission shall deem proper. The commission may not charge fees for general park access or parking;

(7) Enter into agreements whereby individuals or companies may rent undeveloped parks or parkway land for grazing, agricultural, or mineral development purposes upon such terms and conditions as the commission shall deem proper, for a term not to exceed forty years;

(8) Determine the qualifications of and employ a director of parks and recreation who shall receive a salary as fixed by the

governor in accordance with the provisions of RCW 43.03.040 and determine the qualifications and salary of and employ such other persons as may be needed to carry out the provisions hereof; and

(9) Without being limited to the powers hereinbefore enumerated, the commission shall have such other powers as in the judgment of a majority of its members are deemed necessary to effectuate the purposes of this chapter: PROVIDED, That the commission shall not have power to supervise directly any local park or recreation district, and no funds shall be made available for such purpose.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2006."

Senator Doumit spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Zarelli moved that the following amendment by Senators Zarelli, Oke and Jacobsen to the committee striking amendment be adopted.

On page 2, line 8, after "or parking", insert ", unless the biennial general fund-state appropriation for the state parks and recreation commission is below the prior biennium's level"

Senators Zarelli, Doumit and Oke spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Zarelli, Oke and Jacobsen on page 2, line 8 to the committee striking amendment to Substitute House Bill No. 2416.

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

MOTION

Senator Jacobsen moved that the following amendment by Senator Jacobsen to the committee striking amendment be adopted.

On page 2, after line 33, insert the following:

"NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 9, 2006."

Senators Jacobsen and Oke spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Jacobsen on page 2, line 33 to the committee striking amendment to Substitute House Bill No. 2416.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Substitute House Bill No. 2416.

The motion by Senator Doumit carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

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There being no objection, the following title amendments were adopted:

On page 1, line 1 of the title, after "fees;" strike the remainder of the title and insert "amending RCW 79A.05.070; and providing an effective date."

On page 1, line 1 of the title, after "fees;" strike "and amending RCW 79A.05.070." and insert "amending RCW 79A.05.070 and providing an effective date."

## MOTION

On motion of Senator Doumit, the rules were suspended, Substitute House Bill No. 2416 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Oke, Doumit, Zarelli, Pflug, Sheldon and Deccio spoke in favor of passage of the bill.

Senator Jacobsen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2416 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2416 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 5; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker and Zarelli - 40

Voting nay: Senators Delvin, Jacobsen, Regala, Thibaudeau and Weinstein - 5

Excused: Senators Benton, Hargrove, McCaslin and Parlette - 4

SUBSTITUTE HOUSE BILL NO. 2416 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2372, by House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Cox, Buri, Williams, Blake, Moeller, Buck, Conway, Sump, P. Sullivan, Springer, Haler, Ericks, Kretz, Simpson, Dunn and Ormsby)

Encouraging volunteers to teach hunter education courses.

The measure was read the second time.

## MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2372 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Oke and Jacobsen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2372.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2372 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benton, Hargrove, McCaslin and Parlette - 4

SUBSTITUTE HOUSE BILL NO. 2372, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Deccio: "Now, that this bill is passed, can I enroll Vice President Cheney in the first one?"

## SECOND READING

THIRD SUBSTITUTE HOUSE BILL NO. 1458, by House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Hunt, Dickerson, McCoy, B. Sullivan, Williams, Haigh, Appleton, Linville, Chase, Dunshee, Simpson, Uptegrove, Moeller and McDermott)

Concerning the management of on-site sewage systems in marine areas. Revised for 3rd Substitute: Concerning the management of on-site sewage disposal systems in marine areas.

The measure was read the second time.

## MOTION

Senator Sheldon moved that the following amendment by Senator Sheldon be adopted.

On page 1, line 7, after "of" strike "severe"

Senator Sheldon spoke in favor of adoption of the amendment.

Senator Spanel spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon on page 1, line 7 to Third Substitute House Bill No. 1458.

## MOTION

Senator Swecker demanded a division.

The motion by Senator Sheldon failed and the amendment was not adopted by a rising voice vote.

## MOTION



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Senator Sheldon moved that the following amendment by Senator Sheldon be adopted.

On page 1, line 8, after "human-influenced" insert "and animal, including seals,"

Senator Sheldon spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon on page 1, line 8 to Third Substitute House Bill No. 1458.

The motion by Senator Sheldon failed and the amendment was not adopted by voice.

#### MOTION

Senator Sheldon moved that the following amendment by Senator Sheldon be adopted.

On page 1, line 10, after "such" insert "geologic"

Senator Sheldon spoke in favor of adoption of the amendment.

#### POINT OF INQUIRY

Senator Roach: "Would Senator Sheldon yield to a question? Thank you Mr. President. Senator, could you without looking spell the word fjord?"

Senator Sheldon: "I believe I could, f-j-o-r-d. Am I correct?"

Senator Fraser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon on page 1, line 10 to Third Substitute House Bill No. 1458.

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

#### MOTION

Senator Sheldon moved that the following amendment by Senator Sheldon be adopted.

On page 1, line 13, after "portion of" strike "the" and insert "Washington"

Senator Sheldon spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by on page 1, line 13 to Third Substitute House Bill No. 1458.

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

#### MOTION

Senator Sheldon moved that the following amendment by Senator Sheldon be adopted.

On page 1, line 14, after "systems, and" strike "many" and insert "population projections show"

Senator Sheldon spoke in favor of adoption of the amendment.

Senator Spanel spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon on page 1, line 14 to Third Substitute House Bill No. 1458.

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

#### MOTION

Senator Sheldon moved that the following amendment by Senator Sheldon be adopted.

On page 2, line 1, before "designed" strike "Local programs" and insert "Programs at the county level"

Senator Sheldon spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon on page 2, line 1 to Third Substitute House Bill No. 1458.

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

#### MOTION

Senator Sheldon moved that the following amendment by Senator Sheldon be adopted.

On page 2, line 5, after "analysis" strike "can" and insert "may"

Senator Sheldon spoke in favor of adoption of the amendment.

Senator Spanel spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon on page 2, line 5 to Third Substitute House Bill No. 1458.

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

#### MOTION

Senator Eide moved to table the remaining amendments offered by Senator Sheldon.

The President declared the question before the Senate to be the motion by Senator Eide to table the remaining amendments offered by Senator Sheldon to Third Substitute House Bill No. 1458.

Senator Sheldon demanded a division.

The motion by Senator Eide carried by a rising vote.

#### MOTION

Senator Sheldon moved that the following amendment by Senator Sheldon be adopted.

On page 2, line 5, after analysis" strike "can" and insert "may"

Senator Sheldon spoke in favor of adoption of the amendment.

Senator Spanel spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon to Third Substitute House Bill No. 1458.

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

#### MOTION

Senator Morton moved that the following amendment by Senator Morton be adopted.

On page 3, beginning on line 5, after "where the" strike "local health officer, or the department in consultation with the health officer," and insert "county legislative authority"

On page 3, line 34, after "act, the" strike "local health officer" and insert "county legislative authority"

On page 4, beginning on line 11, strike "local health officer" and insert "county legislative authority"

On page 4, line 21, after "2007, the" strike "local health officer" and insert "county legislative authority"

On page 4, beginning on line 23, after "information." strike all material through "recommendation." on line 27

On page 5, line 9, after "they are" strike "functioning properly" and insert "not failing"

On page 5, after line 10, insert the following:

"(3) If a repair is required under subsection (2) of this section, nothing in this section requires a homeowner to install or modify an existing on-site septic system specifically to remove nitrogen."

Senator Morton spoke in favor of adoption of the amendment.

Senator Spanel spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Morton on page 3, line 5 to Third Substitute House Bill No. 1458.

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

#### MOTION

Senator Morton moved that the following amendment by Senator Morton be adopted.

On page 4, line 18, before ". The" strike "available scientific and technical data" and insert "credible data as defined in RCW 90.48.575"

Senator Morton spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Morton on page 4, line 18 to Third Substitute House Bill No. 1458.

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

#### MOTION

On motion of Senator Regala, Senator Haugen was excused.

#### MOTION

Senator Mulliken moved that the following amendment by Senator Mulliken be adopted.

On page 4, line 17 after "department" insert "and the results of the study of nitrogen contributions to ground water required in chapter ... (Second Substitute House Bill No. 3287), Laws of

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2006. A local health officer may not require an on-site sewage disposal system to address nitrogen until the results of the study are complete, and the findings clearly indicate that on-site sewage disposal systems are a significant factor contributing to marine waters with excess nitrogen and low-dissolved oxygen"

Senator Mulliken spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Mulliken on page 4, line 17 to Third Substitute House Bill No. 1458.

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

#### MOTION

On motion of Senator Poulsen, the rules were suspended, Third Substitute House Bill No. 1458 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Sheldon and Morton spoke against passage of the bill.

Senator Spanel spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Third Substitute House Bill No. 1458.

#### ROLL CALL

The Secretary called the roll on the final passage of Third Substitute House Bill No. 1458 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 15; Absent, 0; Excused, 6.

Voting yea: Senators Berkey, Brandland, Brown, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 28

Voting nay: Senators Benson, Carrell, Deccio, Delvin, Hewitt, Honeyford, Johnson, Morton, Mulliken, Parlette, Roach, Schoesler, Sheldon, Stevens and Zarelli - 15

Excused: Senators Benton, Hargrove, Haugen, McCaslin, Oke and Pflug - 6

THIRD SUBSTITUTE HOUSE BILL NO. 1458, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Franklin: "I would just like to remind the senators that on tomorrow, women is Red Hat Day and the notice, it was planned months ago, but the notice did not go out until this afternoon. I'm sorry. But, if you do not have a hat, wear a red ribbon on your hair and for the men you may wear a tie, we don't want to leave you out. Thank you, it should be a fun day, should be a lot of people down tomorrow. Thank you."

#### MOTION

At 10:07 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Wednesday, March 1, 2006.

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